

**Village of Lansing
Board of Zoning Appeals
July 18, 2006**

The meeting of the Village of Lansing Board of Zoning Appeals was convened at 7:34 P.M. by Chairperson Mary Sirois. Present at the meeting were Board members Patrick Gillespie, David Newman, and John Wisor; Alternate Member Dolores Adler; Code Enforcement Officer Ben Curtis; Acting Village Attorney John Barney; and members of the public.

Sirois appointed Adler as an Acting Member for tonight's meeting in place of Don Eckrich who was unable to attend.

Appeal No. 2006-6 – James Cutting and Claudia Lazzaro, Single Family Residence:

The first item on the agenda was Appeal No. 2006-6, James Cutting and Claudia Lazzaro to construct a 3659 SF single family residence including a 576 detached garage at 11 Cedar Lane in the Low Density Residential District, Tax parcel No. 48.1-2-54. A variance is required because the detached garage, a principal building, will be located 25' from the front property line where Section 145-39(E)(4)(a)[1] of the Village of Lansing Code requires that one and two family buildings be set back at least 40 feet from the front property line.

Proof of mailing was provided by James Cutting.

James Cutting, 106 ½ Westfield Drive, made the presentation. Present also was his architect Jason Demarest. Cutting stated the property which they recently purchased is located on the SW corner of the intersection of Cedar Lane and Hemlock Lane. It is Lot 54 in an established neighborhood with few remaining undeveloped lots. This will be the first house built there in about 20 years. The contours of lot are steep and the NE corner is about 25 ft above the SW corner. Cutting showed the Board photographs taken in February to show the lot from various locations. Cutting stated the proposed garage would be 25 feet from the front property lines and would be dug into the hillside giving it a lower roofline. Cutting also showed Board members a mockup of the house and the garage from various positions. Cutting stated they located the garage 25 feet from the front property lines for several reasons. The garage must be separated from the house because his wife suffers from extreme chemical sensitivity and is very allergic to truck and car fumes. The house will be built off the ground on stilts because she is also very allergic to mold. They are building the garage and house on the same level because they are both nearing 60, and given the other health concerns are designing the house to be handicap accessible. In places the grade of the lot is 20% or more and the garage where presently proposed will provide a reasonable slope for access in winter conditions.

Sirois opened the Public Hearing.

Philip Iorio, 1 Cedar Lane, spoke first. Iorio stated it is a nice lot and a nice residence. His concern is that it will be an eyesore and will block the view of others as it is close to the corner of Hemlock

and Cedar. Iorio has reviewed the plans and feels the lot is big enough and there is nothing to preclude the residence from being moved further back on the lot where it would conform to the zoning requirements and be less obtrusive for the neighbors. Iorio also stated the garage would sit on a knoll and would be very visible. Iorio recommended the structure be moved down the slope which would drop the garage roofline 5 feet or so. Cutting noted that there are trees on the corner in question which would provide screening and his intent was to leave these trees. Demarest stated the model generated drawing was done by TG Miller based on topographical data and the drawing is realistic rather than conceptual.

Next, Philip Lempert, 14 Cedar Lane, asked the architect what the exterior of the building would be. Demarest stated that due to chemical sensitivity concerns the exterior of the residence would consist of fiber cement panels with a steel structure and concrete as well as aluminum windows. Colors have not yet been determined. Demarest stated the driveway will come off Cedar Lane as depicted due to the topography; this will provide the most gradual slope. Demarest also noted that moving the residence would necessitate a longer, steeper and more costly driveway. Adler asked if there was anything in the neighborhood in the way of covenants which would require specific color schemes and Lempert stated there were none he was aware of. Demarest stated the proposed driveway would allow for the least cutting of vegetation.

Newman asked if topographically the residence could be shifted down to comply with the 40 ft. setbacks. Demarest stated the driveway coming in would be steeper and to maintain a level surface between the garage and the house the lower edge of the columns would be 15 feet high instead of 12 feet as currently proposed. Also, the house was located uphill to preserve some large trees. Newman stated the NE section of the residence would be lower if the residence were shifted lower onto the lot. Newmasn stated if the garage as well as the house were shifted together, both would remain on the same level relative to each other. Cutting stated the shift would make for a larger drop relative to the road. Iorio stated most of the residences in the area have the same concerns with driveways and grades as the road is also steep. Demarest stated the curb cut can not shift due to the road cut and the bank between Cedar Lane and the interior of the lot; the proposed location provides the only feasible path through the bank. Iorio asked about shifting the garage the other way towards Hemlock Lane rather than downward. Moving the garage in this direction would necessitate cutting deeper into the hillside. Iorio stated this would lower the roofline and make it less conspicuous. Cutting stated the only trees shown on the plan are those larger than 6 inches. The garage would be more exposed if more trees are removed. Iorio is concerned about those traveling down Cedar lane and the conspicuousness of the house so near the corner of Hemlock. Lempert stated there is a house close to and directly facing Cedar Lane, but due to three large pine trees, the house is hardly visible from the road so that the location of the house is a moot point. Cutting stated there are 5 trees at that corner of his lot. Iorio stated those trees are high with little screening value near the ground whereas the trees Lempert is referring to are evergreens which go right to ground level to provide dense screening. Adler asked about the appropriateness of requiring new understory plantings. Lempert stated such plantings could provide an excellent screening. Cutting stated he would be amenable to planting spruce as his wife is allergic to other pines.

Newman called Demarest over to the table to review the site plan as he was uncertain why there could not be a shift in location of the garage and residence. Demarest explained the site to Newman and why the residence was located as proposed. Demarest stated the house would be more visible if moved further south, and if spruce trees could be placed along the road, the garage in the current location would become practically invisible and only the residence, would which does conform with the setbacks, would be visible. Demarest also noted the further the residence is placed to the north the better it will be for better utilization of solar panels, another of the applicants' design considerations.

As there was no one further who wished to speak, Gillespie moved to close the Public Hearing. Seconded by Wisor. Ayes by Adler, Gillespie, Newman, Sirois and Wisor. Motion carried.

Curtis requested a copy of the handout for the record. Demarest agreed to provide one.

Newman asked what could be gained toward compliance by making the bridge from the garage to the residence simply ADA compliant rather than level. Demarest stated the bridge is about 25 feet long and would require a level spot at the garage and one at the entry so that the total gain of such a change would be about 1 foot over the 25 foot span of the bridge. Cutting noted it would become increasingly difficult to push someone in a wheelchair up the inclining bridge as they got older. Demarest further noted the bridge as proposed would be open and uncovered in the winter.

Sirois asked about the gradient for the driveway into the garage. Demarest stated on the east side at the NW corner there would be a cut to the 97 foot contour and the curb cut would be between the 90 and 95 contour line. This would necessitate a cut off of Cedar Lane which would be a 4 ft. cut at about the 93 contour line on the east side and a 2 foot cut on the other. Sirois asked if vehicles coming down Cedar at the s-curve and missing Hemlock Lane would end up in the Cutting driveway or bank. Iorio responded that the vehicles currently end up in the Greenwood (8 Cedar Lane) lawn and that is just part of the reality of living on a steep road.

Adler asked about requiring landscaping. Sirois stated that it can be required as a condition of approval.

Newman stated it appears to him that the grade is not that much more radical at the top of the lot than at the bottom and feels compromises can be made with regard to the location of the building on the lot. Sirois reiterated that Newman is contemplating moving the residence and garage to the southwest. Sirois noted there are some big trees on the lot which might have to be removed if the buildings were moved SW. Wisor asked about plantings and the point raised by the neighbors regarding 8 Cedar Lane. Lempert stated plantings could make the buildings almost invisible and that he would be satisfied with that solution.

Sirois noted that Cutting is dealing with his wife's health problems which include severe allergies to

pines and locust as well as possibly other evergreens. Cutting does not know which others as his wife is in Texas currently being tested. Cutting stated pine is particularly bad and his wife is also allergic to grass so the groundcover would be something else. Cutting feels spruce may be okay but he is uncertain. Sirois noted there is currently a large hemlock on the property. Cutting stated this species might also be okay for his wife. Sirois also mentioned junipers and rhododendrons as possibilities. Board members expressed concern about potential deer damage.

Next, the Board discussed the Findings of Facts with respect to specific criteria for area variances as set forth in Section 145-74 A(1) of the Village Code. After some discussion, Gillespie moved to the following resolution, seconded by Adler.

**VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION FOR APPEAL
NO. 2006-6 ADOPTED ON JULY 18, 2006**

WHEREAS:

- A. This matter involves consideration of the following proposed action: Appeal No. 2006-6, James Cutting and Claudia Lazzaro, to construct a 3659 sf single family residence including a 576 sf detached garage at 11 Cedar Lane in the Low density Residential District, Tax Parcel No. 48.1-2-54. A variance is required because the detached garage, a principal building, will be located 25' from the front property lines where Section 145-39(E)(4)(a)[1] of the Village of Lansing Code requires that one and two family buildings be setback at least 40 feet from the front property line; and
- B. On July 18, 2006, 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 action is a Type II action, and thus may be processed without further regard to SEQR; and
- C. On July 18, 2006, 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
- D. On July 18, 2006, in accordance with Section 712-b of the Village Law of the State of New York and Village of Lansing Code Section 145-74 A(1), the Village of Lansing Board of Zoning Appeals, in the course of its deliberations, took into consideration the benefit to the applicant if the area 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 Village of Lansing Code Section 145-74 A(1):

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 neighbors have stated that they would consider the garage so near to the road an eyesore, but they also stated that an evergreen screen would hide the building as other buildings in the neighborhood have been successfully screened in that way.

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: There are other configurations of the buildings that would comply with the zoning requirements, but these may not be feasible and may involve other adverse impacts. Constraints of health concerns and the topography of the lot have led to this solution.

Whether the requested area variance is substantial.

Finding: Yes, reducing a 40' setback requirement to 25' is substantial.

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

Finding: There will be an adverse impact on the view, but the project has been designed to minimize physical impact on the land. Screening, color choice or other methods could be used to mitigate the impact on view.

Whether the alleged difficulty was self-created.

Finding: It is self-created in that the applicants purchased the lot knowing the zoning limits and the topographical constraints.

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:

Description of Variance: The garage as shown in the application shall be permitted to be built no closer than 25' from the front property lines where Section 145-39(E)(4)(a)[1] of the Village of Lansing Code requires a minimum of 40'.

Conditions of Variance: The applicant shall implement and maintain a plan to mitigate the adverse impact on the view of the property from neighboring properties by screening, color choice, positioning of the building or other methods subject to the approval of the Code Enforcement Officer in consultation with the Chair of the Board of Zoning Appeals.

The vote on the foregoing motion was as follows:

AYES: **Pat Gillespie, David Newman, Mary Sirois, John Wisor and Dolores Adler**

NAYS: **none**

The motion was declared to be carried.

Approval of Minutes – May 16, 2006:

Newman moved to approve the minutes of May 16, 2006 as revised. Seconded by Wisor. Ayes by Adler, Gillespie, Newman, Sirois and Wisor. Motion carried.

Adjournment:

Gillespie moved to adjourn the meeting at 8:55 P.M. Seconded by Wisor. Ayes by Adler, Gillespie, Newman, Sirois and Wisor. Motion carried.