

Village of Lansing
Board of Zoning Appeals
May 15, 2007

The meeting of the Village of Lansing Board of Zoning Appeals was convened at 7:31 P.M. by Chairperson Mary Sirois. Present at the meeting were Board members John Wisor, Patrick Gillespie, and David Newman; Code Enforcement Officer Ben Curtis; Acting Village Attorney Bill Troy; and members of the public.

Appeal No. 2007-1 Murray Estates to operate a business at 2488 N. Triphammer Rd:

The first item on the agenda was a Public Hearing for Appeal No. 2007-1, Murray Estates to operate a business at 2488 North Triphammer Road between the hours of 6:00 AM and 10:00 PM with the stipulation that occupancy be limited to the owner and employees between the hours of 6:00 AM and 8:00 AM, and 6:00 PM and 10:00 PM. An amendment is required to a previous variance permitting the use of the property for a business because that variance included a condition limiting normal operating hours to 8:00 AM to 6:00 PM with occasional use of the building by the owner or employees until 10:00 P.M. The property is located in the Medium Density Residential District, Tax Parcel No. 43.1-1-26.13.

Newman asked if he should excuse himself from the meeting since he works with John C. Lowery who is the individual who would be running the business at 2488 N. Triphammer Road. Troy responded that there would not be a conflict of interest because the application is not being made by John C. Lowery but is being made by the owner of the property. Troy also stated that working with someone does not constitute a conflict of interest if there would be no direct effect, either positive or negative, of the decision for Newman personally.

Troy stated he is here tonight because Attorney David Dubow who normally attends the BZA meetings would have had a conflict of interest because he has represented the applicant in the past.

Ken Horowitz, 496 North Lake Way in Palm Beach Florida and his son Michael attended the meeting. Ken Horowitz stated he is President of Murray Estates Inc. which owns the property and he will make the presentation. Horowitz stated the building located at 2488 N. Triphammer Rd. was the former David's Restaurant and then was later used as a publishing business by Mark Goldberg. Horowitz subsequently purchased the building, but it has sat vacant for the last year. Horowitz read in the Ithaca Journal about the fire at John C. Lowery's business on East Shore Drive. Subsequently, there have been discussions about leasing the building to house the business temporarily. Currently a variance permits the use of the building for such a business. The only condition of the variance that is a problem is one limiting hours of business to 8:00AM – 6:00PM. Lowery needs to use the building between 6:00 AM to 8:00 AM and again from 6:00 PM to 10:00 PM. Horowitz stated the extended hours would be limited to occupancy by the owner and employees. Horowitz stated it is a construction business, but there would not be construction vehicles on site. It is to be used for office

work only. Lowery has already moved in and has obtained a building permit for renovations to build a conference room. Horowitz would like to accommodate the business. Horowitz stated many businesses begin before 8:00 AM. Howoritz stated this building would be leased to Lowery for 6-18 months until their new building is built at a different location. Horowitz would like this variance amendment to be an experiment with the possibility that these extended hours might be continued in the future if they do not constitute a problem. Horowitz stated Jeff Geiger who oversees the properties owned by Horowitz did the mailing to adjoining property owners and has spoken personally with Candace Cima across the road. Horowitz stated the owner of the adjoining property to the west, north and south is also Murray Estates. The only other neighbors are to the east on the opposite side of N. Triphammer Road. In summary, Horowitz stated he is looking for a variance amendment for the extended hours for up to 18 months.

Troy asked Horowitz if he understood that granting of this variance amendment for 18 months would in no way constitute a commitment to grant an extension in the future. Horowitz stated he is aware of this and agreeable to it. Sirois stated the area across the street is presently vacant land and has no residents at this time, but that could change. Horowitz again reiterated that the hours before and after the normal workday would be for employees only and not the public.

Sirois opened the Public Hearing.

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

Sirois stated the Environmental Assessment has been done in the past. Troy stated a SEQRA is not required because a variance is not being granted but rather an amendment is being made to a previously granted variance. Troy recommended the Board review the old SEQRA to see that the Board is satisfied there have been no changes made that would affect the prior findings. Curtis stated the original variance for Citizens Savings was granted pursuant to a court order and a SEQRA was done at that time. Curtis stated only Item 4 on the SEQRA form would be relevant to tonight's meeting which pertains to the character of the neighborhood.

Next, the Board reviewed the old SEQRA and agreed that the current proposal is consistent with the original findings. Troy stated this is a minor amendment for a small amount of time.

Sirois asked Board members about a time limit for the variance amendment. Newman felt a time limit was appropriate and would provide an opportunity for review. Horowitz stated the lease with Lowery is for up to 18 months although it might end sooner. Wisor recommended a limit of 18 months. Newman stated the lease could end in 6 months and then another tenant could use the property for the remainder of the 18 months. Troy stated 2 things could happen: (1) if it resulted in a problem, it would be unlikely the Board would approve extended hours in the future, and (2) the Board could see how the extended hours actually work with two different tenants. Horowitz stated he would like to be notified of any problems and he would address them. Newman stated he has no

reservations and was confident the Lowery business would be very responsible. Board members agreed to up to 18 months for this particular tenant. Newman stated that John C. Lowery does not personally own the business but it is John C. Lowery Inc

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 the following resolution. Seconded by Newman.

VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION FOR AN AMENDMENT TO CONDITION NO. 7 OF A VARIANCE THAT WAS PREVIOUSLY GRANTED WITH APPEAL 1998-1 (Feb. 16, 1998). SUCH AMENDMENT TO PROVIDE THAT JOHN C LOWERY INC AND ITS EMPLOYEES WHICH WILL BECOME THE TENANTS WILL HAVE THE RIGHT TO OPERATE BETWEEN THE HOURS OF 6 AM AND 10 PM WITH ONLY THE EMPLOYEES USING THE BUILDING BETWEEN 6 AM AND 8 AM AND 6:00 PM AND 10:00 PM AND THE VARIANCE AMENDMENT WILL EXTEND FOR 18 MONTHS FROM THIS DATE.

WHEREAS:

- A. This matter involves consideration of the following proposed action: Appeal No. 2007-1, Murray Estates, to operate a business at 2488 North Triphammer Road between the hours of 6:00 AM and 10:00 PM with the stipulation that occupancy be limited to the owner and employees between the hours of 6:00 AM and 8:00 AM, and 6:00 PM and 10:00 PM. An amendment is required to a previous variance permitting the use of the property for a business because that variance included a condition limiting normal operating hours to 8:00 AM to 6:00 PM with occasional use of the building by the owner or employees until 10:00 PM. The property is located in the Medium Density Residential District, Tax Parcel No. 43.1-1-26.13.

- B. On May 15, 2007, 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 variance amendment is granted as weighted 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 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 an area variance.

Findings: There will be no undesirable change produced by granting this variance amendment.

Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance.

Findings: There will be no benefit which can be achieved by some method other than this variance amendment.

Whether the requested area variance is substantial.

Findings: This is not a substantial variance amendment.

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

Findings: This variance amendment will not have an adverse effect in the neighborhood.

Whether the alleged difficulty was self-created.

Findings: Yes, it is self-created.

2. It is hereby determined by the Village of Lansing Board of Zoning Appeals that the above described variance amendment is **GRANTED AND APPROVED** (with conditions, if any, as indicated), it being further determined that such variance amendment 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: John Wisor, Patrick Gillespie, David Newman, and Mary Sirois.

NAYES: none

The motion was declared to be carried.

Approval of Minutes – July 18, 2006:

Gillespie moved to approve the minutes of July 18, 2006 as submitted. Seconded by Newman. Ayes by Wisor, Gillespie, Newman, and Sirois. Motion carried.

Adjournment:

Sirois moved to adjourn the meeting at 7:54, seconded by Wisor. All in favor.