

**Village of Lansing
Board of Zoning Appeals
September 18, 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 Don Eckrich, Patrick Gillespie, David Newman, and John Wisor; Code Enforcement Officer Ben Curtis; Village Attorney David Dubow; and members of the public.

Appeal No. 2007-2 – Morgan Garage Addition – 6 Hemlock Lane:

The first item on the agenda was a Public Hearing for Appeal No. 2007-2, Andrew and Sarah Morgan, to construct a garage addition on their single family residence at 6 Hemlock Lane. A variance is required because the proposed addition would be 10' from a side property line where Section 145-39E(5) of the Village of Lansing Code requires 25', and 29' from the front property line where Section 145-39E(4) requires a minimum of 40'. The existing garage is 15'9" from the side property line. The property is located in the Low Density Residential District, Tax Parcel No. 48.1-2-53.

Architect Richard Hautaniemi, 79 Old Myers Rd., presented the case. Hautaniemi stated the existing driveway slopes toward the house. The proposal is to change the entranceway and garage. Pictures of the site were passed around for Board review.

Sirois opened the Public Hearing.

James Cutting, 11 Cedar Lane spoke first. Cutting stated he is the closest neighbor to the garage and he stated this proposal would be fine as far as he and his wife are concerned. Eckrich asked how far the Cutting residence was from where the proposed garage would intrude into the side yard setback. Dubow stated that the Cutting property adjoins the Morgan property and is immediately to the north. He also indicated that in July 2006 a set back variance was granted for the detached garage on the Cutting property on the corner of Hemlock and Cedar and basically the Cutting house was built on the far side of that lot.

Sirois asked if the garage were to be moved farther toward the front of the house, would it increase the setback on the side yard but not line up correctly with the front entrance of the home. Hautaniemi stated that was correct.

Eckrich asked about diagrams included in the application materials presented to the Board which seemed inconsistent. Hautaniemi stated some of the diagrams were hypothetical and did not show the addition as it is being proposed.

As there was no one else who wished to speak, Gillespie moved to close the Public Hearing.

Seconded by Eckrich. Ayes by Eckrich, Gillespie, Newman, Sirois and Wisor. Motion carried.

Dubow stated that the Morgans came before the last Planning Board meeting because the property includes a steep slope and therefore the garage addition required special permit approval. The Planning Board approved this garage proposal as well as a bathroom addition. The Planning Board attached a condition that erosion and sedimentation control in accordance with DEC best practices be installed during construction and removed once ground cover was reestablished. The Planning Board also made their approval contingent on BZA approval of required variances. Dubow stated there was also a report from Engineer Brent Cross which went to the Planning Board, and which has also been given to the BZA members, with a recommendation that a basic silt fence be used during construction of the project. He also indicated that the Planning Board had received the necessary environmental information and determined that the proposed action would not have any significant adverse environmental impacts. Dubow stated the applicant also submitted a statement which attempts to answer each of the questions the Planning Board must answer to grant an area variance.

Gillespie moved the following resolution suggesting the Board consider and agree upon the required findings of fact with respect to specific criteria for area variances as set forth in Section 145-74 A(1) of the Village Code, as part of the discussion of the motion. Seconded by Wisor with Gillespie volunteering to lead the Board through the findings of fact.

VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION FOR APPEAL NO.
2007-2 ADOPTED ON SEPTEMBER 18, 2007

WHEREAS:

- A. This matter involves consideration of the following proposed action: Appeal No. 2007-2, Andrew and Sarah Morgan, to construct a garage addition on their single family residence at 6 Hemlock Lane. A variance is required because the proposed addition would be 10' from a side property line where Section 145-39 E(5) of the Village of Lansing Code requires 25'; and 29' from the front property line where Section 145-39 E(4) requires a minimum 40'. The existing garage is 15'-9" from the side property line. The property is located in the Low Density Residential District, Tax Parcel No. 48.1-2-53; and
- B. The Village of Lansing Planning Board on September 10, 2007, after evaluation of relevant environmental issues and special permit considerations and requirements, approved and granted a Special Permit (with conditions) for the garage addition with respect to which the aforesaid area variance is being sought, approval of which variance the Village Planning Board recommended to the Village of Lansing Board of Zoning Appeals; and

- C. On September 18, 2007, 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
- D. On September 18, 2007, 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 September 18, 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 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: No, if anything the proposed addition will enhance the 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: Given the location of the existing house on the property and the topography of the site, the four benefits listed by the applicant could not be otherwise accomplished.

Whether the requested area variance is substantial.

Finding: Yes, but no more so than is necessary to accomplish the benefits sought.

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

Finding: Potential adverse impacts have been addressed by the Village Engineer's report and the condition imposed by the Planning Board requiring compliance with New York State Department of Environmental Conservation best practices for erosion and sedimentation control.

Whether the alleged difficulty was self-created.

Finding: Yes, the applicants bought the house knowing the deficiencies, but this does not preclude the granting of a variance.

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:

Eckrich stated the variance asks for a side yard set back of 10' yet the application shows 10.5'. Eckrich also stated the front yard setback shows as 29'10" on the drawing where they are seeking to reduce the required setback to 29'. Curtis stated the setback is 29'10", but that, based on past experience, he encourages a little play or wiggle room. Dubow stated his draft resolution has blanks for setbacks which must be filled in by the Board. Dubow stated the resolution is written so the setback can be no less than a specific number as determined by this Board. The Board filled in the blanks in the draft resolution as follows. The erosion and sedimentation control condition attached by the Planning Board in its approval will also be a condition of the variance. It was also determined that no screening condition was necessary because the affected neighbors to the north had indicated that they have no objection to the proposed variance.

Description of Variance: The garage as shown in the application shall be permitted to be built no closer than (i) 10 feet from the northerly side property line where Section 145-39 E(5) of the Village of Lansing Code requires 25'; (ii) 29 feet from the front property line where Section 145-39

E(4) requires a minimum 40’.

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Conditions of Variance:

- A. In granting the area variance, the Board accepts, endorses and incorporates the conditions attached by the Planning Board in its approval of the Special Permit for this project granted on September 10, 2007, one of which conditions required this Board granting such variance.**

The vote on the foregoing motion was as follows:

AYES: Pat Gillespie, David Newman, Mary Sirois, Don Eckrich and John Wisor

NAYS: none

The motion was declared to be carried.

Approval of Minutes – May 15, 2007:

Gillespie moved to approve the minutes of May 15, 2007 as revised. Seconded by Newman. Ayes by Gillespie, Newman, and Sirois. Abstain by Eckrich. Motion carried.

Adjournment:

Wisor moved to adjourn the meeting at 8:14 P.M. Seconded by Gillespie. Ayes by Eckrich, Gillespie, Newman, Sirois and Wisor. Motion carried.