

**Village of Lansing
Board of Zoning Appeals
November 20, 2007**

The meeting of the Village of Lansing Board of Zoning Appeals was convened at 7:33 P.M. by Chairperson Mary Sirois. Present at the meeting were Board members Don Eckrich, Patrick Gillespie, David Newman, and John Wisor; Alternate Dolores Adler; Code Enforcement Officer Ben Curtis; Village Attorney David Dubow; and members of the public.

Appeal No. 2007-4 – Medical Office Building Addition 2377 N. Triphammer Road:

The first item on the agenda was a Public Hearing for Appeal No. 2007-4, Timothy D. Bonniwell, DMD, to construct a 176 sf vestibule addition on the rear of the existing office building at 2377 N. Triphammer Road which is being converted to a medical office. A variance is required because the proposed addition would be 31'9" from a rear property line where Section 145-42E(6) of the Village of Lansing Code requires 40'. The existing building is 35'9" from the rear property line. The property is located in the Commercial Low Traffic District, Tax Parcel No. 47.1-2-16.

Timothy Bonniwell addressed the Board. Presently the building is about 36 ft. from the rear property line and has no handicap accessible entrance. They are proposing to build the 176 sf vestibule as part of alterations to provide handicap access and meet ADA requirements. The north end of the building is being raised so that all of the work areas will be on one floor. Inside the building, adding the vestibule will enclose a new handicap entrance and an exit without cutting into needed work space while cutting down on drafts when patients come and go. This will be a cost savings and will be more efficient and comfortable for patients and staff.

Bonniwell stated he received materials from Curtis listing the five main points which the BZA would be considering. Bonniwell responded individually to each of the points. First, Bonniwell did not feel the vestibule would produce an undesirable change in the neighborhood because it only brings the building 4 feet closer to the property line. The building is also on an angle and only the southeast corner of the new vestibule would be 31' 9" from the property line. Bonniwell stated the existing parking lot or driveway would not be moved, but only raised to bring it even with the floor level of the building for handicap access. The vestibule would now be closer to the driveway, but the driveway and parking lot would not be any closer to the rear property line. Regarding the second point as to whether the applicant could achieve the benefit by another method, Bonniwell stated he could not because placing the vestibule within the existing footprint would make it very difficult to meet his space needs and satisfy ADA requirements as well. Bonniwell also stated that placing the vestibule in the front of the building would require redoing the parking lot and bringing in a lot more fill in front. This would be less aesthetically pleasing and less efficient than placing the vestibule in the rear where much less fill is required, and leaving the parking and driveway as currently exists. Regarding the third point about the variance being substantial, Bonniwell stated it is not because it is a small addition of only 176 sf. The fourth point deals with adversely affecting the neighbors and Bonniwell stated that the property directly

behind this property is owned by Colonial Vet and will be donated to the Village as a park. The last point deals with the difficulty being self-created, Bonniwell responded it is not as there was not a vestibule on the building and this will make it more comfortable and handicap accessible for patients.

Newman asked if the applicant considered placing the vestibule on the north end or sliding the vestibule to the north. Bonniwell stated sliding the vestibule to the north would require more fill on the northern side and there would also be a need for a ramp from the parking lot to the entrance. Instead he is proposing to raise the driveway to floor level which requires less fill and no ramp. Bonniwell stated raising the driveway appears to be the most efficient way to get handicapped patients into the building. Bonniwell also noted that although the drawing reviewed by the Board is labeled "Option 9b" most of the other options pertained to interior spaces and floor plans and how to make the space most effective, not multiple plans for the vestibule.

Newman asked about what construction has been done in the building so far. Bonniwell responded that the northern end of the building has been framed but the southern end is awaiting a decision by this Board. The floor on the north end has been raised but retains the same footprint.

Newman asked again if there were any options to have the vestibule on the north end. Bonniwell stated there were none as farther to the north the entrance is the more fill is required and there is more sloping and drainage concerns.

Curtis stated he had received the Proof of Mailing.

Eckrich asked about the sloping sidewalk from the handicapped parking space down to the rear entrance and wondered what is planned for the bottom level. Bonniwell stated that the floor has been raised and there will be a door installed for a delivery entrance for gases and supplies without going through the patient area. If this plan is approved, Curtis will be sent additional plans for the lower level.

Sirois opened the Public Hearing.

Bonniwell noted that although it does not show on the drawing, there is a 10x12 shed on the property which he would like to remove as he feels it is an eyesore. He pointed out that the unsightly shed would be replaced by a good looking vestibule. Audience member Mrs. Susan Kim, a neighbor, indicated agreement with this.

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

Dubow noted for the record that since this is an area setback matter, the action is exempt from SEQRA review.

Newman expressed concerns about the timing of the request as the construction has already been started and there may have been other solutions which may have been more costly but did not require a variance. Newman stated that there is already a retaining wall proposed and although additional fill would be required, it may have been possible to design the project so the vestibule could have been moved further to the north, in which case a variance would not be required as the vestibule would have fit within the 40 ft. setback. Since much of the work is already done on the northern portion of the building, it is probably too late for this option.

Wisor asked if the Village Engineer has spent time on this project. Curtis responded that this work does not require a Special Permit, although grade has been raised in the back, and therefore was not submitted for review by the Village Engineer.

Eckrich asked about the neighboring land to the east. Curtis stated this land will be dedicated to the Village as parkland. Dubow responded that the property in the rear was part of the Special Permit process for the Colonial Vet project which was reviewed by the Village Engineer. It was acquired by the the owners of Colonial Vet to dedicate to the Village to satisfy the buffer strip requirement. Dubow stated the ultimate resolution was to have Colonial Vet develop the land to create the buffer with landscaping and plantings since there was not sufficient land on their property. Curtis stated the buffer would serve the Colonial Vet as well as this property. Curtis stated that the plans for Bonniwell's project showed plantings between the parking area and the park and along the east boundary of their property. Curtis stated this Board could set conditions for a screening which might require that the proposed plantings in fact be installed and maintained in perpetuity. Dubow stated that part of the Village's trail system will also go across the park area. Dubow also noted that the site plan for this property depicts the area deeded for the Village sewer easement which is an unbuildable area and might allow pedestrian access to N. Triphammer Road.

Eckrich moved to close this discussion portion of the meeting. Seconded by Gillespie. Ayes by Eckrich, Gillespie, Newman, Sirois and Wisor. Motion carried.

Newman led the Board through the findings and Eckrich moved the following resolution which Newman seconded:

VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION ADOPTED ON
NOVEMBER 20, 2007 FOR APPEAL NO. 2007-4

- A. This matter involves consideration of the following proposed action: Appeal No. 2007-4, Timothy D. Bonniwell, DMD, to construct a 176sf vestibule addition on the rear of the existing office building at 2377 North Triphammer Road which is being converted to a medical office. A variance is required because the proposed addition would be 31'-9" from a rear property line where Section 145-42 E(6) of the Village of Lansing Code requires 40'. The existing building is 35'-9" from the rear property line. The property is located in the Commercial Low Traffic District, Tax Parcel No. 47.1-2-16; and

- B. On November 20, 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
- C. On November 20, 2007, 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
- D. On November 20, 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 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 the area variance.

Finding: No, the rear property line abuts a park and green space, and the existing parking configuration is unchanged. Having the vestibule in the rear of the building helps preserve a crisp professional appearance on the Triphammer Road side.

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: It is not clear that all possibilities have been exhausted, but other obvious alternatives would involve substantial fill which could have an adverse impact. Given the minimal impact of the deficiency and the benefits to be gained, further investigation does not seem warranted.

Whether the requested area variance is substantial.

Finding: No, the vestibule is only 176 sf and the building is currently deficient in rear yard set back. Further, the deficient rear yard abuts a future Village park.

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

Finding: No, in fact it will probably be an improvement and the proposed plantings will offset any adverse visual impact.

Whether the alleged difficulty was self-created.

Finding: Yes, the applicants were or should have been aware of the limitations when they purchased the property, but did so anyway.

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:

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The building shall be constructed substantially as shown on the plans and the furthest projection on the rear side shall be no closer than 31 feet to the rear property line.

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Conditions of Variance:

The existing shed in the rear yard shall be removed and the plantings shown on the plans dated 10/23/07 shall be installed and maintained.

The vote on the foregoing motion was as follows:

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

NAYS: none

The motion was declared to be carried.

Approval of Minutes – October 16, 2007:

Newman moved to approve the minutes of October 16, 2007 as revised. Seconded by Wisor. Ayes by Eckrich, Gillespie, Newman, Sirois and Wisor. Motion carried.

Adjournment:

Newman moved to adjourn the meeting at 8:20 P.M. Seconded by Gillespie. Ayes by Eckrich, Gillespie, Newman, Sirois and Wisor. Motion carried.