

**Village of Lansing
Board of Zoning Appeals
September 15, 2009**

1 The meeting of the Village of Lansing Board of Zoning Appeals was convened at 7:30
2 P.M. by Chairperson Mary Sirois. Present at the meeting were Board members Don
3 Eckrich, David Newman and John Wisor; Alternate Member Dolores Adler; Code
4 Enforcement Officer Ben Curtis; Village Attorney David Dubow; and the applicants, Bill
5 and Sandy Thomas.

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7 **Appeal No. 2009-2**, William H. Thomas, to construct a 12'x 21' freestanding carport at
8 his single family residence at 2 St. Joseph Lane. A variance is required because the
9 proposed carport would be 15' from the front property line facing Votapka Road where
10 Section 145-40 E(4)(a)[1] of the Village of Lansing Code requires 40'. The property is
11 located in the Medium Density Residential District, Tax Parcel No. 47.1-2-10.

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13 Sirois called the meeting to order and appointed Adler to serve as an Acting Member in
14 place of Pat Gillespie who could not attend.

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16 Curtis stated he had received the Proofs of Mailing.

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18 Sirois asked Thomas to present his case. Thomas directed the Board's attention to the
19 statement and drawing he had submitted with his application, explaining that when he
20 acquired the parcel he realized that it did not have either a garage or car port. He would
21 like to keep his cars under cover especially during the winter. The portable steel carport
22 seemed ideal for his property because of space constraints. He reported that he had
23 included a letter with the required notice to contiguous property owners explaining the
24 project and encouraging them to contact him with any questions or concerns. The
25 Hogbens who live at 35 Janivar Drive did contact him and he visited with them and left
26 with the impression that he had satisfied their concerns. He hopes to be able to put the
27 carport in this fall before the winter weather arrives.

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29 Sirois asked Curtis if this would be considered a permanent structure. Curtis replied that
30 it could be considered permanent, but that it is attached to the ground in a manner that
31 would permit it to be easily removed or moved to another location. Curtis explained that
32 a movable building up to 120sf could be placed without a permit and could be placed
33 closer to the property line than the Zoning Law permits if the offended property owner(s)
34 give written permission. This structure, however, is larger than 120sf. Thomas clarified
35 that the structure is 18 X 21 although the notice stated that it is 12X21. The cars would
36 enter on the 18' side facing St. Joseph Lane and park side by side. The floor of the garage
37 would be crushed stone, an extension of the material in his driveway. Responding to a
38 question from Eckrich, Thomas explained that complying with the 40' setback from the
39 Votapka Road side would push the carport well into his backyard in between his deck
40 and the woods along the north side of his property. He enjoys the view of the woods and
41 this would significantly diminish his enjoyment of the property. The walls on the sides

1 parallel to Votapka will be fully sided and the ends parallel to St. Joseph will be entirely
2 open. The height is approximately 8'2" and he intends to paint the carport to match the
3 house, red with white trim. The Hogbens were concerned about a large commercial
4 looking building close to their property and seemed satisfied that the carport as proposed
5 would not be an eyesore. The fence along the Hogben's rear property line will obscure
6 the garage mostly, if not entirely, from their view.

7
8 Sirois asked if the short dead end section of Votapka Road fronting Thomas' property
9 might be abandoned. Curtis replied that the issue had come up from time to time as the
10 section is not used by anyone other than the owner of the property in question, but the
11 Village must maintain it. He added that the approval for the Guild Commercial Park
12 stipulated that Votapka Road would never be extended beyond the South boundary of the
13 development. The Village has not to date opted to go through the procedure required to
14 abandon the road, however. Were they to do so, Curtis stated that he believed the
15 property would revert equally to the ownership of the adjoining property owners, in this
16 case Hogben and Thomas, though the Village might retain an easement for a trail as part
17 of the Greenway Program. Curtis pointed out that the right-of-way for this section of
18 Votapka Road appears to be only 27' where the Village standard is 60'. Eckrich noted
19 that if the road was abandoned, the variance would not be required as the current front
20 yard along Votapka would become a side yard and the carport would be set back over 28'
21 where 20' is required for a side yard setback.

22
23 Dubow advised the Board that there was some potential for a neighbor to object to an
24 approval of the project, because the legal notice stated that the building is 12X21 when it
25 has been established that the building is in fact 18X21. Thomas noted that the side of the
26 building facing the Hogben's is the 21' dimension and that with their fence the most they
27 might see would be part of the roof.

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29 Sirois opened the Public Hearing. As there was no one present who wished to speak,
30 Eckrich moved to close the Public Hearing, seconded by Newman, all in favor. Newman
31 moved to conclude the discussion portion of the proceeding, seconded by Wisor, all in
32 favor. Wisor then led the Board through the five criteria that must be considered in
33 granting an area variance, in the course of which discussion ensued regarding possible
34 conditions that might be imposed as conditions for approval. Following extensive review
35 and discussion, Newman moved the following resolution, seconded by Eckrich:

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37 **VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION ADOPTED**
38 **ON SEPTEMBER 15, 2009 FOR APPEAL NO. 2009-2**

39
40
41 **WHEREAS:**

- 42
43 A. This matter involves consideration of the following proposed action: Appeal
44 No. 2009-2, William H. Thomas, to construct a 12'x 21' freestanding carport
45 at his single family residence at 2 St. Joseph Lane. A variance is required

1 because the proposed carport would be 15' from the front property line facing
2 Votapka Road where Section 145-40 E(4)(a)[1] of the Village of Lansing
3 Code requires 40'. The property is located in the Medium Density Residential
4 District, Tax Parcel No. 47.1-2-10; and
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6 B. On September 15, 2009, the Village of Lansing Board of Zoning Appeals held
7 a public hearing regarding such action, and thereafter thoroughly reviewed
8 and analyzed (i) the materials and information presented by and on behalf of
9 the applicant(s) in support of this appeal, (ii) all other information and
10 materials rightfully before the Board, and (iii) all issues raised during the
11 public hearing and/or otherwise raised in the course of the Board's
12 deliberations; and
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14 C. One September 15, 2009, in accordance with Article 8 of the New York State
15 Environmental Conservation Law - the State Environmental Quality Review
16 Act ("SEQR), and 6 NYCRR Section 617.5, the Village of Lansing Board of
17 Zoning Appeals determined that the proposed action is a Type II action, and
18 thus may be processed without further regard to SEQR; and
19

20 D. On September 15, 2009, in accordance with Section 712-b of the Village Law
21 of the State of New York and Village of Lansing Code Section 145-74 A(1),
22 the Village of Lansing Board of Zoning Appeals, in the course of its
23 deliberations, took into consideration the benefit to the applicant if the area
24 variance is granted as weighed against the detriment to the health, safety and
25 welfare of the neighborhood or community by such grant;
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27
28
29 NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:
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31 1. The Village of Lansing Board of Zoning Appeals hereby makes the following
32 findings with respect to the specific criteria for such area variance as set forth
33 in Section 712-b of the Village Law of the State of New York and Village of
34 Lansing Code Section 145-74 A(1):
35

36 *Whether an undesirable change will be produced in the character of the*
37 *neighborhood or detriment to nearby properties will be created by*
38 *granting the area variance.*
39

40 **Finding: All in all the change will not be undesirable. Although the**
41 **building itself is not like others in the Village in character and**
42 **construction, the applicants agree to install shrubs along the**
43 **Votapka Road side to screen the building, and because the carport**
44 **will be located over 100' from St. Joseph Lane, it will not be**
45 **intrusive from that perspective. Were it not for the setback**

1 **deficiency, the carport could be constructed on this or any lot, its**
2 **character and construction notwithstanding. Having the**
3 **applicants' cars under cover will be an improvement.**
4

5 *Whether the benefit sought by the applicant can be achieved by some*
6 *method feasible for the applicant to pursue other than an area variance.*
7

8 **Finding: Yes, but locating the structure 40' from Votapka Road**
9 **would put it further into the applicant's back yard, obstructing**
10 **their view of the woods, diminishing their enjoyment of their**
11 **property, jeopardizing a significant tree and requiring additional**
12 **lawn be converted to driveway. The alternative would have a more**
13 **undesirable impact than the proposal for which the variance is**
14 **requested.**
15

16 *Whether the requested area variance is substantial.*
17

18 **Finding: Yes, reducing the setback from 40' to 15' is substantial,**
19 **but is offset by the unique circumstance that the portion of**
20 **Votapka Road on which the property fronts is a dead end seldom**
21 **used by anyone other than the applicant and not a traffic**
22 **thoroughfare, and the structure is not permanent in nature and**
23 **may be moved or removed.**
24

25 *Whether the proposed area variance will have an adverse effect or impact*
26 *on the physical or environmental conditions in the neighborhood or*
27 *district.*
28

29 **Finding: It could have an adverse visual impact which can be**
30 **mitigated by a vegetative screen.**
31

32 *Whether the alleged difficulty was self-created.*
33

34 **Finding: Yes, the applicant recently bought the property and**
35 **should have been aware of the constraints. Given the unique**
36 **circumstance of this portion of Votapka Road being a seldom used**
37 **dead end, however, it may not have been readily apparent that the**
38 **yard fronting Votapka would be considered a front yard.**
39

- 40 2. It is hereby determined by the Village of Lansing Board of Zoning Appeals
41 that the following variance is **GRANTED AND APPROVED** (with
42 conditions, if any, as indicated), it being further determined that such variance
43 is the minimum necessary and adequate to grant relief and at the same time
44 preserve and protect the character of the neighborhood and the health, safety
45 and welfare of the community:

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Description of Variance:

The front yard setback on the Votapka Road side shall be reduced from 40' to 15' for the 18' x 21' carport as presented in application for this variance.

Conditions of Variance:

- 1. The sides shall be fully sided and screened on the Votapka Road side with plants such as shrubs and deer resistant vegetation, in accordance with a landscape plan approved by the Chair of the Board of Zoning Appeals, such screen to be maintained for the life of the structure.**
- 2. The structure may not be moved or structurally modified unless the Board of Zoning Appeals grants an additional variance permitting such action.**

The vote on the foregoing motion was as follows:

AYES: Mary Sirois, Don Eckrich, David Newman, John Wisor and Dolores Adler

NAYS: none

The motion was declared to be carried.

Approval of the Minutes

Eckrich moved the minutes be approved as corrected, seconded by Adler. Ayes by Sirois, Wisor, Eckrich and Adler. Newman abstained as he was not present at that meeting. Motion carried.

Adjournment:

There being no other business, Wisor moved to adjourn the meeting at 8:53 P.M. Seconded by Newman. Ayes by Eckrich, Newman, Adler, Sirois and Wisor. Motion carried.