

**Village of Lansing
Board of Zoning Appeals
March 15, 2016**

1 The meeting of the Village of Lansing Board of Zoning Appeals was convened at 7:03 P.M. by
2 Chairperson Lynn Leopold. Present at the meeting were Board members, John Wisor, Patrick
3 Gillespie, and Roy Hogben; Alternate Member Mary Sirois; Code Enforcement Officer Marty
4 Moseley; Village Attorney David Dubow; Gary Sloan; Carolyn and Jeremy Kilborn, and Owen
5 Speulstra from Bohler Engineering.

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7 Leopold appointed Sirois as an acting member in place of absent member Don Eckrich.

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9 **Public Comment Period:**

10 Leopold opened the public comment period. With no one wishing to speak, Sirois moved to
11 close public comment period; seconded by Gillespie; Ayes by Leopold, Gillespie, Sirois, Wisor
12 and Hogben

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14 **Public hearing to consider:**

15 Leopold opened the public hearing for the following:

16 **Appeal No. 2016-1**, McDonald's USA LLC., to alter their exiting delineated parking
17 areas which would allow for bus parking areas within 5 feet from the southern property
18 line, located at 2350 North Triphammer Road in the Commercial Medium Traffic
19 District, Tax Parcel No. 47.1-1-17.83. A variance is required because the proposed bus
20 parking area does not provide for adequate side yard parking setback as required by
21 Section 145-42.2E.(6)(b) of the Village of Lansing Zoning Law.

22
23 Speulstra indicated that McDonald's is looking to place two parking spots along the southern
24 curb of their existing parking lot. Speulstra noted that he has been in front of the Planning Board,
25 which has approved a concept for a second order lane and island. In achieving this second order
26 lane and island the existing parking needed to be shifted around to accommodate vehicles. The
27 proposed area is fifteen feet wide by sixty feet long. Speulstra added that they are currently
28 seeking a variance because the Village engineer, unknown to him, suggested shifting the large
29 vehicle parking areas to the current proposed location, instead of along the North Triphammer
30 road side of the site.

31
32 The Board had the following questions:

- 33 1. Where would contractors park their large equipment?
- 34 2. Where would a second bus be parked if needed?

35 Speulstra noted that two busses could fit in the proposed parking area if they parked correctly,
36 and the contractors could utilize the same parking area.

37
38 There were some questions about the operation of the proposed second order island, which
39 Speulstra explained. Moseley also indicated that the second order island operation has already
40 been dealt with at the Planning Board level and that additional signage and pavement striping
41 would be added.

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Sloan expressed the following:

1. There was originally a 16-foot buffer in between his property (Squeaky Clean Car Wash) and McDonald's. This was put in place to ensure that McDonald's could encroach towards the lease line but stay away from Sloan's property line.
2. Two order lanes would be beneficial to McDonalds and he has no opposition to the second order lane/island.
3. He is opposed to the proposed parking for the busses because he feels that it will be utilized by many other vehicles than just busses, it is a deterrent to the neighboring property due to the large vehicles parking along the south parking lot curb, and the applicant has the opportunity to build parking spaces on the north side of the McDonalds property and a variance is what is minimally necessary to achieve the desired result.

Leopold asked how Sloan saw the parking encroaching onto his property.

Sloan indicated that all large vehicles would park there and not just the busses. Sloan added that they could build parking areas on the north side of the property and not need a variance.

Speulstra noted that there currently is a drainage easement, a large water way, and a stormwater area on a majority of the north property that Sloan is referring to for the possibility of additional parking.

Sloan noted that according to the topography map, the north east corner is fairly flat and would allow for the development of additional parking areas.

Speulstra indicated that if the larger parking were to be built on the north side of the property it would equate to more impervious area which would then be required to increase the stomrmwater detention facility.

Sloan indicated that the proposed buss parking also could cause a traffic jam and cause issues for fire trucks.

Moseley indicated that he had discussed the site layout with the Fire Chief and he indicated that he would be able to maneuver the fire trucks so long as the dimensions on the plan are maintained.

Sirois asked if Moseley could research the drainage-way easement and see if one could develop a parking area over the easement.

Moseley indicated that he could, but it would need to be after the meeting, since it may take some time to figure out.

Given the additional review that is needed, Gillespie moved to continue the public hearing and schedule a special meeting for further evaluation on April 13th, 2016 at 7:00PM. Seconded by Hogben; Ayes by Leopold, Sirois, Hogben, Gillespie, and Wisor.

87 **Public hearing to consider:**

88 Wisor moved to open the public hearing for:

89 **Appeal No. 2016-02**, Carolyn Kilborn, to construct a two-unit residential building of
90 approximately 2800 square feet. One or more variances are required because (i) the
91 proposed two-unit residential building would be deficient in the minimum required
92 amount of road frontage as required by Section 145-39 E(3)(a)[2] and (ii) the proposed
93 two-unit residential building would be deficient in the lot area as required in section 145-
94 39 E(1)(b)[2] of the Village of Lansing Code. The Low Density Residential District
95 requires a minimum lot size of 90,000 square feet, and minimum street frontage of 150
96 feet for a two-unit residential building as identifies in the Village of Lansing Code. The
97 property is located in the Low Density Residential District, Tax Parcel No. 43.1-1-4.3

98 Seconded by Gillespie. Ayes by Leopold, Gillespie, Hogben, Sirois, and Wisor.

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100 Moseley indicated that due to the property not having the correct amount of road frontage and
101 the correct amount of lot size area, variances would be needed, but the use of two-unit residential
102 is permitted in the Low Density Residential District.

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104 C. Kilborn indicated she and her husband (Jeremy) currently live in Annapolis, Maryland and are
105 looking to retire to the Village of Lansing on Esty Drive. C. Kilborn is a former architect and
106 they are proposing to have approximately 650 square feet for an apartment for a live-in health
107 care worker when one is needed. C Kilborn added that they would rent out the apartment to
108 others before they were in need of the live-in healthcare worker, and they would like to have a
109 person that is quiet. C. Kilborn indicated that they are looking to have 3 occupants at most (the
110 average family being 4 occupants), and only 2 cars. Currently there are existing derelict
111 structures on the property that would be demolished and replaced with a new two family house
112 and an accessory garage.

113

114 Leopold asked about the easement for the driveway to access the property.

115

116 Moseley indicated that the lot was created in 1929 and there appeared to be an easement for the
117 driveway to the lot in question.

118

119 Hogben asked about fire truck access.

120

121 J. Kilborn indicated that the driveway currently exists and the size and character of the parking
122 proposed is in character with the neighborhood.

123

124 Moseley indicated that he had received proof of mailings, and submitted the following report:

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126 *To: Board of Zoning Appeals*

127 *From: Zoning Department*

128 *Subject: Tax Parcel 43.1-1-4.3 (Esty Dr.)*

129 *Date: March 9, 2016*

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131 **Appeal No. 2016-02:**

132 *Carolyn Kilborn, to construct a two-unit residential building of approximately*
133 *2800 square feet. One or more variances are required because (i) the proposed*
134 *two-unit residential building would be deficient in the minimum required amount*
135 *of road frontage as required by Section 145-39 E(3)(a)[2] and (ii) the proposed*
136 *two-unit residential building would be deficient in the lot area as required in*
137 *section 145-39 E(1)(b)[2] of the Village of Lansing Code. The Low Density*
138 *Residential District requires a minimum lot size of 90,000 square feet, and*
139 *minimum street frontage of 150 feet for a two-unit residential building as*
140 *identifies in the Village of Lansing Code. The property is located in the Low*
141 *Density Residential District, Tax Parcel No. 43.1-1-4.3*

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144 **Report:**

145 *The applicants are requesting to build a two-unit residential building on a 1.37-acre parcel of land off of*
146 *Esty Dr. The current lot does not have any road frontage and predates the existence of the Village being*
147 *established. The Current Zoning Law, section 145-63, indicates that only a one-unit residential building is*
148 *allowed to be built on the current parcel since the parcel predates the Village's existence. The applicant*
149 *indicates that the proposed aesthetics of the project will be consistent with the existing buildings, which is*
150 *also consistent with the existing neighborhood.*

151 *This request has prompted two areas variance due to a two-unit residential structure requiring (i) a*
152 *minimum of 200 feet of road frontage and (ii) a minimum lot area of 90,000 square feet, which equates to*
153 *approximately 2.06 acres. A typical one-unit residential building, located in the Low Density Residential*
154 *district, would require a minimum of 150 feet of road frontage. There appears to be existing dilapidated*
155 *structures on the lot in question, which the proposed building would replace and also have an accessory*
156 *building utilized for a garage. The applicant indicates that the proposed size of the two-unit building is*
157 *2,800 square feet at most, which could be the same size as a one-unit residential building that could be*
158 *built on the site. The applicant is proposing to have 4 parking spaces at most, which appears to be*
159 *consistent with the Village Zoning and other residential lots developed in the Village.*

160 **SEORA:** *Review is not required as this is a two family residential house and therefore is exempt. As far*
161 *as environmental impacts for the project, the applicant will be required to achieve a special permit at*
162 *which time the Planning Board will analyze the project for impacts on the environment, but there will not*
163 *be any formal SEQRA review performed by the Planning Board.*

164
165 **Tompkins County Planning Department GML 239 -l and -m GML 239 -l -m and -nn:** *The Tompkins*
166 *County Planning Department has responded and indicated that there are no negative inter-community*
167 *or county-wide impacts.*

168 **Flood Plains:** *The proposed project is not shown within any flood plains.*

169 *The area variance request is evaluated per the five questions that all area variances are required to*
170 *answer:*

- 171 *a. Whether an undesirable change will be produced in the character of the neighborhood or*
172 *detriment to nearby properties will be created by the granting of the area variance.*
- 173 *b. Whether the benefits sought by the applicant can be achieved by some method, feasible for the*
174 *applicant to pursue, other than an area variance.*
- 175 *c. Whether the requested area variance is substantial.*
- 176 *d. Whether the proposed variance will have an adverse effect or impact on the physical or*
177 *environmental conditions in the neighborhood or district.*

178 e. *Whether the alleged difficulty was self-created.*

179
180 Sirois moved to close the public hearing. Seconded by Wisor. Ayes by Leopold, Sirois, Wisor,
181 Gillespie, and Hogben.

182
183 Sirois moved the following resolution with conditions:

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185 **VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION ADOPTED ON**
186 **MARCH 15, 2016 FOR APPEAL NO. 2016-02**

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189 *Motion made by:* _____ *Mary Sirois*

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191 *Motion seconded by:* _____ *Roy Hogben*

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193 **WHEREAS:**

- 194
195 A. *This matter involves consideration of the following proposed action: Appeal No.*
196 *2016-02, Carolyn Kilborn, to construct a two-unit residential building of*
197 *approximately 2800 square feet. One or more variances are required because (i) the*
198 *proposed two-unit residential building would be deficient in the minimum required*
199 *amount of road frontage as required by Section 145-39 E(3)(a)[2] and (ii) the*
200 *proposed two-unit residential building would be deficient in the lot area as required*
201 *in section 145-39 E(1)(b)[2] of the Village of Lansing Code. The Low Density*
202 *Residential District requires a minimum lot size of 90,000 square feet, and minimum*
203 *street frontage of 150 feet for a two-unit residential building as identifies in the*
204 *Village of Lansing Code. The property is located in the Low Density Residential*
205 *District, Tax Parcel No. 43.1-1-4.3; and*
- 206
207 B. *On March 15, 2016, the Village of Lansing Board of Zoning Appeals held a public*
208 *hearing regarding such action, and thereafter thoroughly reviewed and analyzed (i)*
209 *the materials and information presented by and on behalf of the applicant(s) in*
210 *support of this appeal, (ii) all other information and materials rightfully before the*
211 *Board, and (iii) all issues raised during the public hearing and/or otherwise raised in*
212 *the course of the Board’s deliberations; and*
- 213
214 C. *On March 15, 2016, in accordance with Article 8 of the New York State*
215 *Environmental Conservation Law - the State Environmental Quality Review Act*
216 *(“SEQR), and 6 NYCRR Section 617.5, the Village of Lansing Board of Zoning*
217 *Appeals determined that the proposed action is a Type II action, and thus may be*
218 *processed without further regard to SEQR; and*
- 219
220 D. *On March 15, 2016, in accordance with Section 712-b of the Village Law of the State*
221 *of New York and Village of Lansing Code Section 145-74 A(1), the Village of Lansing*

222 *Board of Zoning Appeals, in the course of its deliberations, took into consideration*
223 *the benefit to the applicant if the area variance is granted as weighed against the*
224 *detriment to the health, safety and welfare of the neighborhood or community by such*
225 *grant;*

226
227 *NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:*

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229 1. *The Village of Lansing Board of Zoning Appeals hereby makes the following findings*
230 *with respect to the specific criteria for such area variance as set forth in Section 712-*
231 *b of the Village Law of the State of New York and Village of Lansing Code Section*
232 *145-74 A(1):*

233
234 *Whether an undesirable change will be produced in the character of the*
235 *neighborhood or detriment to nearby properties will be created by granting the*
236 *setback area variance.*

237
238 *Finding: No. The new house construction would improve the character of the*
239 *neighborhood due to the current derelict buildings on the site.*

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

243
244 *Finding: No. A two-unit house is ideal and is in keeping with the character of*
245 *the neighborhood.*

246
247 *Whether the requested area variance is substantial.*

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249 *Finding: Yes. It is substantial due to there being no road frontage and the lot*
250 *is too small for the use, but the size of the structure is small and would have*
251 *negligible impact after the construction is completed.*

252
253 *Whether the proposed area variance will have an adverse effect or impact on the*
254 *physical or environmental conditions in the neighborhood or district.*

255
256 *Finding: No. The construction of the structure would provide a benefit to the*
257 *neighborhood. The Planning Board will further examine the environmental*
258 *impacts, via a special permit, due to the structure being located in the Steep Slope*
259 *Combining District and the Unique Natural Area Combining District.*

260
261 *Whether the alleged difficulty was self-created.*

262
263 *Finding: Yes. The construction is substantial, but it would not preclude the*
264 *construction of the structure.*

265

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

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272 **Description of Variance:**

273 *A 2,800 square foot, two-unit, house is allowed to be built on the existing lot without*
274 *any road frontage and with the lot only being 1.37 acres in size.*

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278 **Conditions of Variance:**

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280 1. *Prior to a building permit being issued, proof shall be provided to the Village*
281 *Code Enforcement Officer that there exists legal and existing access to and*
282 *from the property in favor of the property owner.*
283 2. *The owner of the property shall be required to occupy/reside in one of the*
284 *residential units that exist in the two-unit structure.*

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288 *The vote on the foregoing motion was as follows:*

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290 *AYES: Lynn Leopold, Mary Sirois, Roy Hogben, Patrick Gillespie, and John Wisor.*

291
292 *NAYS: None*

293
294 *The motion was declared to be carried*

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296 **Approval of Minutes:**

297 *Hogben moved to accept the August 24, 2015 minutes as amended. Seconded by Gillespie. Ayes*
298 *by Leopold, Wisor, Gillespie, Sirois, and Hogben.*

299
300 **Adjournment:**

301 *Gillespie moved to adjourn at 8:37 PM. Seconded by Wisor; Ayes by Leopold, Gillespie, Sirois,*
302 *Wisor, and Hogben.*