

Village of Lansing
Board of Zoning Appeals Meeting
Minutes of August 15, 2018

The meeting of the Village of Lansing Planning Board of Zoning Appeals was called to order at 7 PM by Chairman, Lynn Leopold.

Present at the meeting were Board of Zoning Appeals Members: Chair, Lynn Leopold, Roy Hogben, John Wisor and Simon Moll (arrived 7:22pm), Patrick Gillespie (arrived 7:50pm); Village of Lansing Code Enforcement Officer, Adam Robbs; Village Trustee Liaison, Ronny Hardaway; Village Attorney, William Troy; Additional people in attendance; Planning Board Members; Lisa Schleelein and Mario Tomei; Municipal Relations Consulting LLC representative, Marty Mosley; Tompkins County Legislator Dist. 10 Representative, Debra Dawson;

Public Comment Period

Wisor moved to open public comment period, Hogben seconded the motion. With no one wishing to speak, Wisor moved to close the public comment period. Seconded by Hogben; Ayes: Leopold, Hogben, Wisor.
Absent: Moll, Gillespie

Robbs asked that Appeal No. 2018-04 be dealt with first. Leopold introduced the following appeal:

Appeal No. 2018-04 Jamie Zimmerman Dairy One Cooperative Inc., to install a 15 square foot freestanding entrance sign. A variance is required because a sign, of this nature, is not currently permitted for an office/studio/service use within the High-Density Residential District by chapter 115 of the Village of Lansing Code. The property is located at 730 Warren Road and has not been built yet but has been granted special permit approval by the Village of Lansing Planning Board, Tax Parcel No. 46.1-4.2.

Napierala Consulting, Neal H. Zinsmeyer, Jr., P.E., representing Dairy One, explained the concerns of the sign; Leopold asked if it's a lighted sign and if it could be turned off at night, Neal answered yes; Hardaway asked about distance between the signs and could it cause confusion between signs already present. Zinsmeyer said it would be clearly marked and be approximately 200 feet apart. Hogben asked if the sign would be different from the signs close by. Zinsmeyer said the sign would be the same size as the one next door but clearly marked to identify the business.

Troy read the following resolution:

VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION ADOPTED ON
AUG 15, 2018 FOR APPEAL NO. 2018-04

Motion made by: _____ John Wisor _____

Motion seconded by: _____ Roy Hogben _____

WHEREAS:

- A. This matter involves consideration of the following proposed action: Appeal No. 2018-02, Dairy One Cooperative Inc., to install a 15 square foot freestanding entrance sign. A variance is required because a sign, of this nature, is not currently permitted for an office/studio/service use within the High-Density Residential District by chapter 115 of the Village of Lansing Code. The property is located at 730 Warren Road and has not been built yet but has been granted special permit approval by the Village of Lansing Planning Board, Tax Parcel No. 46.1-4.2; and
- B. On Aug 15, 2018, 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 Aug 15, 2018, 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 Aug 15, 2018, 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 existing area is similar in nature and the sign would be visually consistent with the area.

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: No

An area variance is the only option for the applicant to be able to place a sign

to identify their business.

Whether the requested area variance is substantial.

Finding: No

The proposed 15 square foot sign is smaller than what is allowed for a typical multi-tenant business in any commercial district within the Village, which is 18 square feet.

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

The proposed sign would be an improvement for individuals trying to locate the business since all businesses are required to be identified for emergency services. The aesthetics will be improved since there will be construction of a new facility at the site.

Whether the alleged difficulty was self-created.

Finding: Yes

Since the applicant is erecting a new building, it is self-created, but every building needs to be identified for emergency services.

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:

Approved 15 square foot sign which will be illuminated.

Conditions of Variance:

Sign is to be on a timer and may be lite from 6am to 10pm daily

The vote on the foregoing motion was as follows:

Hogben moved to accept Resolution for Appeal No. 2018-04 to approve the variance of adding a sign to Tax Parcel No. 46.1-4.2. Seconded by Wisor.

Ayes: Leopold, Hogben, Wisor

Nays: none

Absent: Moll and Gillespie

Leopold read the next appeal:

Appeal No. 2018-03 Municipal Relations Consulting applying for a use variance for the Tax Parcel # 47.1-3-5 Also addressed as 2343 N Triphammer Road. The applicant is seeking a use

variance for Low Traffic Food and Beverage on this parcel. This is required under the Village Code 145-42 as Low Traffic Food and Beverage is not an allowed use.

Mosley on behalf of applicant spoke of zoning changes back from 2015 and read from the applicant's package as inserted below.

May 10, 2018

Village of Lansing
Board of Zoning Appeals
2405 North Triphammer Road
Ithaca NY, 14850

Re: Use Variance Request
2343 N. Triphammer Road
Ithaca NY, 14850
Tax Parcel Number: 47.1-3-5

Dear Chairperson Leopold and Board of Zoning Appeals Members,

On behalf of the owners, I am requesting that a use variance be granted for the property located at 2343 North Triphammer Road. The use that we are seeking is a Low Traffic Food and Beverage use, as defined by the Village of Lansing Code.

As you are aware this property has a long history with the Village of Lansing. It was originally the McDonalds site, which was a non-conforming use of record. In 1998 McDonalds moved across North Triphammer Road to 2350 North Triphammer Road. At that point in time, the old McDonalds building was bought and redeveloped into a multi-tenant building. Over the years, this building has housed a law office, multiple doctors' offices, and multiple chiropractic offices.

It would appear that, per section 145-74 (3) of the Village of Lansing Code, the Board of Zoning Appeals has the power to grant such a request in the event that we can demonstrate unnecessary hardship in accordance with subsections a-d of section 145-74 (3).

Please accept this letter and associated documentation as evidence that the property, located at 2343 North Triphammer Road should be allowed to utilize a Low Traffic Food and Beverage use.

- a. Under applicable zoning regulations the applicant cannot obtain a reasonable economic return as determined in the sole discretion of the Board of Zoning Appeals, from the property in question, which insufficient return must be established by competent financial evidence satisfactory to the Board of Zoning Appeals.
 - i. As you can see from the attached supporting document #4, the owners of the property in question show financial hardship (over the past 5 years) of approximately \$137,500. These financial figures do include the rent paid by all tenants, including the owners of Lama Law. If the owners of the property did not pay rent to themselves, then the financial hardship suffered by the owners of the property would be magnified further.
- b. The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
 - i. The existing parcel is located in the Commercial Low Traffic district and it would appear that the existing zoning was amended to not include a Low Traffic Food and Beverage Use in 2015. The unique aspect of this lot is that it does not about a residential district and is

contiguous to the Commercial Medium Traffic District. The intent section of the Commercial Low Traffic district regulations indicates the following: *"The legislative intent of this section is to define and establish standard regulations for the Village where service facilities are the desired land use; where public utilities to serve such facilities are available; and where areas that border on residential areas or do not have an adequate road system to handle large volumes of vehicular traffic are reserved for low traffic uses, thereby preserving the residential environment of the surrounding areas"* (page 145033 of the Village Code). Due to the unique nature of this lot it would not have any negative impact on any residential zoning district (see map in document #1 for district boundaries) This is one of only two lots in the entire Commercial Low Traffic district, that is situated in such a way that it is not contiguous to a residential district and is contiguous to the Commercial Medium Traffic district. That being said, this unique condition would not be applicable a substantial portion of the district or neighborhood (see document #2). Additionally, the current property in question would meet the intent of the Commercial Medium Traffic District due to the property in question not abutting any residential district. This is identified in the intent section of the Commercial Medium Traffic district regulations as follows: *"Intent. The legislative intent of this section is to define and establish standard regulations for the Village where the desired land uses are service facilities and small retail areas that encourage a more foot traffic and; where public utilities to serve such facilities are available. This district is fully surrounded by commercial districts and is not contiguous to any residential area (LDR, MDR, HDR), thus preserving the Commercial Low Traffic district and its original intent of preserving the residential environment of the surrounding areas"* (page 145040 of the Village Code).

- c. The requested use variance, if granted, will not alter the essential character of the neighborhood.
 1. By adding an additional Low Traffic Food and Beverage use in this neighborhood, it would not alter the essential character of the neighborhood because the existing neighborhood (within about .20 miles) includes uses such as, but not limited to (see document #3 for additional uses in the neighborhood):
 - I. McDonalds (High Traffic Food and Beverage use),
 2. A Car Wash (Sales, Repair, Maintenance uses),
 3. Offices of dentists, doctors, office of professionals, and orthodontics (Office, Studio, Service uses)
 4. Ciao! (Low Traffic Food and Beverage use)
 5. Mobil Gas Station
 6. The Cayuga Mall and the Tops Out Parcel Mall with various uses included in the Sales, Repair Maintenance and Low Traffic Food and Beverage use categories.
 11. The addition of the proposed Low Traffic Food and Beverage use, on the property in question, would enhance the existing Triphammer Road corridor and be consistent with the existing uses that currently exist within the Commercial Low Traffic, Commercial Medium Traffic, and Commercial High Traffic districts of this area.
- d. The alleged hardship has not been self-created.
 - i. The hardship is not self-created due the existing property owner being the owner of the property prior to (and after) the Village amended sections of the Commercial Low Traffic district regulations removing the Low Traffic Food and Beverage use.

Additionally, the proposed use change would be consistent with the Villages comprehensive plan for the following reasons:

- I. It would allow for a redevelopment of an existing commercial property. Page 24 of the

comprehensive plans indicate that the Village should "*Promote maintenance, improvement and reuse of existing non-residential properties;*"

2. By allowing this use change, for the property in question, it would allow for additional commercial uses to be provided and continue to preserve its position as a regional commercial center in Tompkins County, and to provide for the commercial, employment and health service needs of Village residents (page 24 of the Village Comprehensive Plan): *Village should maintain a mutually beneficial relationship with local businesses and non-residential developers, both to preserve its position as a regional commercial center in Tompkins County, and to provide for the commercial, employment and health service needs of Village residents.*"
3. The property in question is located in such a way that would continue to maintain existing established buffer (or transition) areas between commercial and residential areas. (Page 25 of the Village Comprehensive Plan) *"Establish "phased" zoning of commercial districts to provide a buffer between busy commercial areas and residential neighborhoods Encourage well-designed physical and visual transitions between different land uses to minimize conflict; Continue to work with non-residential property owners to design structures, signs and landscaping that add to the quality of the site and the character of the Village".*

By granting of this use variance the public health, safety and welfare would not be impacted by allowing a Low Traffic Food and Beverage use on this particular parcel. The parcel in question provides a unique setting to not allow an impact on any residential zoning districts. The use was an allowed use, in the Commercial Low Traffic district, up until 2015. During the zoning change the Planning Board indicated that they wanted to remove the Low Traffic Food and beverage use due to the potential impact that it may have on residential properties. The uses that were removed from the Commercial Low Traffic district were done as to reduce impacts, such as traffic impact, exterior lighting, and noise, on the residential properties in the Village, specifically in the Craft Road area of the Village. Due to the property in question gaining access to and from North Triphammer Road there would be no direct impact on any residential property in the Village. Due to this property not being directly adjacent to any residential properties, there would be no impact of noise or lighting, on the residential properties in the Village (please see the below excerpts from multiple sets of Village minutes, supporting the above statements, in the Planning Board discussion when they were considering and formulating the current zoning regulations for the Commercial Medium Traffic and amending the Commercial Low Traffic district regulations)

May 29, 2012

Schleelein felt that a hospital use should be removed from the CLT regulations and be separate from a clinic use. Goetzmann noted that there are very few parcels in the Village that would be able to sustain a hospital. Dubow noted that one could conceivably come in, buy up multiple parcels, tear down existing structures, and build a hospital or any other use. *Schleelein noted that most of her changes dealt with the impact of noise or traffic on residential property owners. Schleelein asked about the religious facilities in all areas.*

1 September 10, 2012

2
3 *Dubow suggested looking at the Comprehensive Plan regarding what the Village envisioned for the*
4 *businesses near Craft Road and their impact on the residential neighboring parcels. Stycos noted that some*
5 *uses like the CFCU bank, on Craft Road, and Crystal's Spa and Salon, on Triphammer Road, do not*
6 *produce a large amount of traffic throughout the entire day. Tomei noted that any of the buildings in that*
7 *area could be demolished and rebuilt with more traffic intensive uses. Schleelein asked if redevelopment*
8 *would be a bad thing. Tomei noted that that kind of redevelopment could increase traffic on Craft Road.*

9
10 April 8, 2013

11
12 *Tomei noted that the proposed CLT transition zone (north of Oakcrest Road) abuts three sides of*
13 *residential use, which provides the reasoning for making that area the lower impact CLT zone. Tomei*
14 *presented a map of the proposed designated two CLT district boundaries*

15
16 *After further discussion it was determined that the following uses would not be incorporated in*
17 *the transition district:*

- 18 *1. construction sales/storage*
- 19 *2. low traffic food and beverage*

20
21 May 13, 2013

22
23 *Tomei noted that the low traffic food and beverage use would only be allowed in the corridor district and*
24 *the low impact technology use would remain in both districts.*

25
26 May 28, 2013

27 *Dubow noted that the CLT-1 district would allow the Low Traffic Food and Beverage use, but not in the*
28 *CLT-2 district.*

29
30
31 March 9, 2015:

32 *Tomei noted that the proposed CMT District would not be contiguous to any of the current residential*
33 *Districts in the Village, which would allow for the CLT. The goal will continue to be a buffer between*
34 *residential and higher Commercial Districts. Tomei added that/he only residential District that abuts a*
35 *higher District would be in the HDR District, which is contiguous to the CHT District*

36
37 Thank you for your time and consideration on the above related topic.

38
39 Sincerely,

40
41 Marty Moseley
42 Municipal Relations Consulting

43
44 Moll arrived at 7:22pm.

45
46 Troy asked about the financial statement provided in the packet. Troy requesting a breakdown to
47 specify year by year spending as it was difficult to decipher information. Many members also had
48 trouble understanding the financials therefore it was difficult to understand for economic hardship.

49 Leopold brought up the concern for traffic patterns and increasing traffic due to this location being
50 directly across from McDonalds where that would cause traffic to cross in front of the oncoming
51 traffic. Leopold stated that she stood over at the location around lunch time and witnessed many
52 cars backed up to the Graham Road intersection light. Robbs stated that he had a discussion with
53 NYSDOT and was advised that this is the most appropriate traffic pattern for this area. Many BZA
54 members were involved in this discussion regarding the traffic concerns.

55 Discussion moved to the Short Environment Assessment Form. Leopold questioned whether
56 residential should be indicated on Part 4. Mosley stated yes. Item #13 was marked incorrect and
57 should be marked “no”.

58 More discussion was had regarding traffic concerns. Leopold asked why Mosley’s client didn’t
59 bring this up during rezoning years ago. Mosley stated they were under a non-compete clause
60 until this year.

61 Leopold asked if there would be adequate parking. Mosley stated that the owners may reduce the
62 footprint of the building depending on the use and the requirement for parking. Troy asked what
63 the original size of the building was in comparison to Ciao and McDonalds. Conversation was
64 discussed by the group inquiring on the size of other local businesses in the area.

65 Schleelein asked if this would be a small bar/restaurant and how many people are expected to be
66 seated. Mosley did not know as it would be dependent upon the client. Mosley also mentioned a
67 full bar is not expected to be on site. Robbs read the definition of a bar.

68 Robbs stated the changes in Medical Care Offices etc., where today it’s not just a doctor and one
69 staff member as most offices now have many staff members along with a doctor’s assistance. This
70 changes traffic where it could cause a hindrance.

71 Moll expressed traffic concerns as traffic turns into and out of the business’s. He asked if the
72 middle lanes could be revised. Leopold suggested the possibility of having no left turns out of the
73 business. Robbs is not sure of the regulations of restriping the lanes. Dawson mentioned how she
74 plans her trips and usually will stop at businesses on the side she’s traveling therefore if a new
75 food and/or beverage business is offered it might help with the traffic congestion giving the public
76 more options. Leopold asked Gillespie if he had concerns, as he joined the meeting at 7:50.
77 Gillespie said he liked the idea of having “no left turn” on N. Triphammer similar to the situation
78 at the Tompkins County Trust Company location.

79 Leopold suggested that maybe the zoning should be reviewed since there are many changes today
80 with businesses and traffic patterns. Leopold also suggested we table this until next meeting as
81 there are unanswered questions. A left turn seems to be the major concern. Schleelein mentions
82 she doesn’t think it’s the use of what the business is to be, it’s the traffic. Having another “sit

83 down” restaurant would be great. Robbs asked for suggestions of how to fix the traffic concern.
84 Hardaway asked if it would be possible for the State to come in and provide suggestions for traffic
85 changes for Triphammer Road. Robbs expressed his concerns as there’s not much room to allow
86 changes to the traffic patterns. Robbs mentions he would contact the NYSDOT for possible
87 suggestions.

88 Leopold would like feedback from NYSDOT and the financial statement updated for clarification
89 purposes. Robbs will ask NYSDOT to give feedback to Marty Moseley as Robbs’ last day with
90 the Village is 8/17/18. Leopold does not oppose another “sit down” restaurant. She is concerned
91 about the safety. Moseley mentions this could be more of a “foot” traffic location which could
92 possibly eliminate some traffic.

93 Leopold asked the Board if they were on board with granting this request. Hogben and Wisor are
94 still concerned about the applicant’s request. Therefore, this request is deferred until the next BZA
95 meeting to be held on 9/18 or 9/19/18.

96 Gillespie made a Motion to table this discussion until next meeting; Hogben seconded with
97 conditions of the clarification of the financial statement and the input of the NYSDOT if possible.

98 Ayes; Leopold, Gillespie, Hogben, Moll, Wisor
99 Nays: None

100

101 **Approval of Minutes**

102 November 16, 2017

103 Wisor moved to accept the minutes of November 16, 2017. Seconded by Hogben.

104 Ayes: Leopold, Hogben, Gillespie, Wisor

105 Abstain: Moll

106

107 **Adjournment**

108 Hogben moved to adjourn at 8:22pm PM. Seconded by Wisor.

109 Ayes: Leopold, Hogben, Gillespie, Moll, Wisor

110

111 Tammy Milliman, Village of Lansing PT Clerk