

Village of Lansing
Board of Zoning Appeals
Minutes of July 22, 2020

The meeting of the Village of Lansing BZA via Zoom was called to order at 7:01 PM by Chair, Lynn Leopold.

Present at the meeting:

BZA Members: Patrick Gillespie, Roy Hogben, Board Chair; Lynn Leopold, Simon Moll and John Wisor

Village Legal Counsel: William Troy

Village CEO: Michael Scott

Attending: Ken Fogarty, Monica Moll and Lisa Schleelein

Leopold read the following agenda item:

Kenneth Fogarty is proposing to build a 22' X 18' garage using materials similar to the existing home located at 2 St Joseph Lane (Tax Parcel # 47.1-2-10). A previously approved variance (#2009-2) allowed for a carport to be located within 15' of the Votapka Road Right-Of-Way. The carport has since been removed and as per the new site plan presented, the proposed garage will require the following area variance appeal:

Appeal No. 2020-03, Minimum Front Yard Setback (all other uses) is 75 Feet: Proposed 16 Feet.

Leopold recognized Ken Fogarty and asked him to describe his appeal.

Fogarty said that he wanted to take down an existing shed and build a small garage that would be within the 75' limit of the Village front yard setback. Fogarty continued to give details on the design and placement of the building.

Leopold asked what was to the north of Fogarty's property. Wooded area owned by the Triad Foundation was the answer. Fogarty continued by saying the only neighbor that would see the structure would be Roy Hogben.

Hogben was concerned about the proposed garage obstructing his view and asked if the structure could be moved closer to the house. Fogarty and Hogben agreed to meet at the site and discuss a solution.

The appeal was tabled until the next BZA meeting.

Leopold read the following agenda item:

Simon and Monica Moll are proposing to install a swimming pool and pool house in their back yard located at 44 Dart Drive (Tax Parcel # 46.1-1-20). Both the pool and pool house would be located within the required Village setbacks for the Medium Density Residential District and would require the following variance appeals:

43 *Appeal No. 2020-04, Side Yard Setback Minimum (Accessory Buildings) is 10 feet: Proposed Pool House*
44 *Setback 1 foot.*

45 *Appeal No. 2020-05, Side Yard Setback Minimum (Accessory Buildings) is 10 Feet: Proposed Pool*
46 *Setback 6 Feet 3 Inches*

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48 Monica Moll reviewed the proposed plan to install an in-ground pool with a small pool house for
49 storage and a bathroom. The pool house would be about 1 foot from the property line to the east
50 but would not be seen because of a planned fence installation around the perimeter of the back
51 yard. Hogben asked Moll if the land in back of their house was the property that the Solar Village
52 was proposing to build on. Moll said yes and added, as per the proposed site plan that Solar Village
53 has submitted, there won't be any residential units build directly behind them. Simon Moll added
54 that the proposed emergency exit for the Solar Village would access Dart Drive and border the
55 Moll's property on the same side as their variance request. Simon Moll asked Scott to verify that
56 the setback for that road would be 20' from their property. Scott said that is what the Solar Village
57 is proposing but could change. Monica Moll explained that where the pool is being placed is the
58 only logical and private spot in the back yard and that the pool house would be located on top of
59 the sewer drain from the house, making it easy to plumb. The bathroom area would only be
60 seasonal. Leopold said the side setback is 10' and they are not asking for much of a change.
61 Leopold then asked if anyone else had any questions or comments. Hogben looked at a satellite
62 image and felt that the pool would not disturb anyone because it was quite isolated.
63 Troy asked if the Village received the proof of mailings. Scott said yes.

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65 Leopold read through the following resolution:

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67 *VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION ADOPTED ON JULY*
68 *22, 2020 FOR APPEAL NO. 2020-04.*

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70 *Motion made by:* Patrick Gillespie

71 *Motion seconded by:* Roy Hogben

72 **WHEREAS:**

73 A. *This matter involves consideration of the following proposed action: Appeal No. 2020-*
74 *04, Simon and Monica Moll of 44 Dart Drive (Tax Parcel # 46.1-1-20), Ithaca, New*
75 *York, are requesting an area variance for the side yard setback of a proposed pool*
76 *house. The Village side yard setback for an accessory building, as per Section 145-40*
77 *E(5)a, requires 10-feet in the MDR district. They are asking to adjust the requirement*
78 *to 1 foot resulting in a 9-foot deficiency of the Village code requirement.*

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- B. *On July 22, 2020, 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 July 22, 2020, 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 July 22, 2020, 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;*

99 *NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:*

100 *The Village of Lansing Board of Zoning Appeals hereby makes the following findings with*
101 *respect to the specific criteria for such area variances(s) as set forth in Section 712-b of*
102 *the Village Law of the State of New York and Village of Lansing Code Section 145-74 A(1):*
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104 *Whether an undesirable change will be produced in the character of the*
105 *neighborhood or detriment to nearby properties will be created by granting the*
106 *area variance.*

107 *Finding: No, Unanimous*

108 *Whether the benefit sought by the applicant can be achieved by some method*
109 *feasible for the applicant to pursue other than an area variance.*
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111 *Finding: No, Unanimous*

112 *Whether the requested area variance is substantial.*
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114 *Finding: No, Unanimous*
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117 *Whether the proposed area variance will have an adverse effect or impact on the*
118 *physical or environmental conditions in the neighborhood or district.*

119 *Finding: No, Unanimous*

120 *Whether the alleged difficulty was self-created.*

121 *Finding: Yes, Unanimous*

122 *It is hereby determined by the Village of Lansing Board of Zoning Appeals that the*
123 *following variance(s) is/are **GRANTED AND APPROVED** (with conditions, if any, as*
124 *indicated), it being further determined that such variance is the minimum necessary and*
125 *adequate to grant relief and at the same time preserve and protect the character of the*
126 *neighborhood and the health, safety and welfare of the community:*

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128 **Description of Variance:** *As described in "A"*

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130 **Conditions of Variance:**

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132 *It is hereby determined by the Village of Lansing Board of Zoning Appeals that the requested*
133 *variance is **GRANTED**.*
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135 *The vote on the foregoing motion was as follows:*

136 *Ayes: Gillespie, Hogben, Leopold and Wisor*

137 *Nays: None*

138 *Abstain: Moll*

139 *The motion was declared to be carried*

140 *Leopold read through the following resolution:*

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142 *VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION ADOPTED ON JULY*
143 *22, 2020 FOR APPEAL NO. 2020-05.*

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145 *Motion made by:* John Wisor

146 *Motion seconded by:* Roy Hogben

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148 **WHEREAS:**

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A. *This matter involves consideration of the following proposed action: Appeal No. 2020-05, Simon and Monica Moll of 44 Dart Drive (Tax Parcel # 46.1-1-20), Ithaca, New York, are requesting an area variance for the side yard setback of a proposed swimming pool. The Village side yard setback for an accessory building, as per Section 145-40 E(5)a, requires 10-feet in the MDR district. They are asking to adjust the requirement to 6 feet 3 inches resulting in a 3 foot 9 inch deficiency of the Village code requirement.*

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B. *On July 22, 2020, 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*

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C. *On July 22, 2020, 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*

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D. *On July 22, 2020, 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;*

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NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

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The Village of Lansing Board of Zoning Appeals hereby makes the following findings with respect to the specific criteria for such area variances(s) 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.

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Finding: No, Unanimous

188 *Whether the benefit sought by the applicant can be achieved by some method*
189 *feasible for the applicant to pursue other than an area variance.*
190

191 *Finding: No, Unanimous*

192 *Whether the requested area variance is substantial.*
193

194 *Finding: No, Unanimous*

195
196 *Whether the proposed area variance will have an adverse effect or impact on the*
197 *physical or environmental conditions in the neighborhood or district.*

198 *Finding: No, Unanimous*

199 *Whether the alleged difficulty was self-created.*

200 *Finding: Yes, Unanimous*

201 *It is hereby determined by the Village of Lansing Board of Zoning Appeals that the*
202 *following variance(s) is/are **GRANTED AND APPROVED** (with conditions, if any, as*
203 *indicated), it being further determined that such variance is the minimum necessary and*
204 *adequate to grant relief and at the same time preserve and protect the character of the*
205 *neighborhood and the health, safety and welfare of the community:*

206
207 **Description of Variance:** *As described in “A”*

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209 **Conditions of Variance:** *Installation of a fence around the pool.*

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211 *It is hereby determined by the Village of Lansing Board of Zoning Appeals that the requested*
212 *variance is **GRANTED**.*
213

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

215 *Ayes: Gillespie, Hogben, Leopold and Wisor*

216 *Nays:*

217 *Abstain: Moll*

218 *The motion was declared to be carried*

219 **Minutes of February 12, 2020**

220 *Leopold asked if there were any corrections needed for the February 12 meeting.*

221 Moll motion to accept the minute as written. Seconded by Gillespie

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223 Ayes: Gillespie, Hogben, Leopold, Moll and Wisor

224 Nays: None

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226 Motion carried

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228 Moll asked if anyone had heard from The Council. Troy reported that The Council has filed a
229 written appeal but has been put on hold because of Covid-19. Troy has a feeling that there would
230 be a big turnout when a meeting happens. There is a brief that complains about the decision Scott
231 made in categorizing the use as a hospital. Troy is going to suggest to their lawyer to issue an
232 actual permit application for us to look at while the BZA looks at The Council's complaint about
233 Scott's interpretation. At this point, we don't have a clear description of what they are proposing.

234 Leopold said she would go back and review the early discussions The Council had with the Village
235 Planning Board. Troy will pull together information about similar cases so that the BZA members
236 will have background on this type of situation. Also, at this point, Troy recommends the BZA set
237 a date, like August 12th, for a meeting and he will contact The Council's lawyer. Leopold asked if
238 it would be an official BZA meeting. Troy said that he believes it will but wants to talk to them
239 first. Schleelein asked if The Council is coming to the BZA for an actual use variance. Scott said
240 no, they are looking to challenge his categorization. Troy said this is very confusing but he would
241 like Scott's decision marked down for the record by way of a Board meeting. None of the contact
242 between the Village and The Council has been formal conversation. Scott said that The Council
243 sent a description of what the plan was for phase II. After reading that, he determined that a hospital
244 was the closest use. Schleelein agreed that a hospital was the best categorization from the list that
245 the Village Code book offers. Moll asked if there was any voting at the original Planning Board
246 meeting that The Council went to. Scott said no, it was an informal presentation. Troy will contact
247 The Council's representative and get back to the BZA.

248 Leopold mentioned that the Shops at Ithaca Mall subdivision would produce many variances with
249 the introduction of 0 lot lines if that proposal was approved by the Planning Board. Troy and Scott
250 will work out a way to streamline all the variances as much as possible.

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252 **Adjournment:**

253 Leopold asked for a motion to adjourn at 8:05 PM. Moved by Gillespie. Seconded by Moll

254 Ayes: Gillespie, Hogben, Leopold, Moll and Wisor

255 Nays: None

256 Minutes taken by: Michael Scott, CEO