

Village of Lansing
Board of Zoning Appeals
Minutes of May 3, 2022

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

Present at the meeting:

BZA Members: Roy Hogben, (Board Chair) Lynn Leopold, Mike Powell and John Wisor

Village Legal Counsel: Natalie French

Village CEO: Michael Scott

Attending: Kevin Sullivan, Nathan Cook, Michelle Benedict-Jones, Janice Ormsby, Gary Bush

Leopold read the following agenda item:

Kevin Sullivan, owner and operator of Catering By Luna, is requesting a use variance for the property located at 1638 East Shore Drive (Tax Parcel # 42.1-1-28.1). The original “Low traffic food and beverage” use for this parcel was a non-conforming use in the Low-Density Residential District but was allowed as per Village Code Section 145-65. Since then, the former owner discontinued the use for longer than 12 months (Village Code Section 145-65D) therefore, requiring the parcel use to conform with the LDR District regulations. The following is the appeal request:

Appeal No. 2022-01;

Use Variance for “Low traffic food and beverage” in the Low-Density Residential District.

Leopold stated that the Board of Zoning Appeals had received the requested letter from the Trustees and makes it clearer to see the hardship was not self-created.

Hogben moved to close the public hearing. Seconded by Wisor.

Ayes: Hogben, Leopold, Powell, and Wisor

Nays: None

Leopold read through the following resolution:

***VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION ADOPTED ON MAY
3, 2022 FOR APPEAL NO. 2022-01.***

Motion made by: John Wisor

Motion seconded by: Roy Hogben

WHEREAS:

- A. *This matter involves consideration of the following proposed action: Appeal No. 2022-01, Kevin Sullivan, owner and operator of Catering By Luna, is requesting a use variance for the property located at 1638 East Shore Drive (Tax Parcel # 42.1-1-28.1). The original “Low traffic food and beverage” use for this parcel was a non-conforming use in the Low-Density Residential District but was allowed as per Village Code Section 145-65. Since then, the former owner discontinued the use for longer than 12 months (Village Code Section 145-65D) therefore, requiring the parcel use to conform with the LDR District regulations. The applicant is appealing for a use variance for “Low traffic food and beverage”.*
- B. *On April 19, 2022 and May 3, 2022, 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 May 3, 2022, 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 May 3, 2022, 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(3), the Village of Lansing Board of Zoning Appeals, in the course of its deliberations, took into consideration the benefit to the applicant if the use 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:

The Village of Lansing Board of Zoning Appeals hereby makes the following findings with respect to the specific criteria for such use 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(3):

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.

Finding: Yes, applicant and Trustee of property could not obtain a reasonable economic return without the requested use.

The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.

Finding: Yes

The requested use variance, if granted, will not alter the essential Character of the neighborhood.

Finding: No, this was a previous use.

The alleged hardship has not been self-created.

Finding: Factors, such as the pandemic, were a cause of the non-activity on the parcel resulting in the loss of the original non-conforming use

*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: *As described in “A”*

Conditions of Variance:

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

The vote on the foregoing motion was as follows:

AYES: Hogben, Leopold, Powell, and Wisor

NAYS: None

The motion was declared to be carried

Leopold read the following agenda item:

Public Hearing to Consider:

Gary Ormsby is proposing a subdivision of an existing parcel located at 2570 North Triphammer Road (Tax Parcel #42.1-1-54) which contains 1.92 acres or 82,764 square feet and is located in the Medium Density Residential District. LotA1 would be .97 acres (42,109 square feet) and contain the existing home. LotA2 would be .95 acres (41,287 square feet) and be a new buildable lot. Both lots do not meet Village Code Section 145-40E(1)b[1] for minimum lot size of 1.37 acres (60,000 square feet) and would require an area variance. The following is the appeal request:

***Appeal No. 2022-02;
Area Variance for Lot A1 for 17,891 square feet.***

***Appeal No. 2022-03;
Area Variance for Lot A2 for 18,713 square feet.***

Scott explained that the applicant had been in front of the BZA a few months back to informally review a possible subdivision and what was necessary to proceed. At the time, the BZA recommended that the applicant show that a new septic system could be designed within the smaller parcel before the BZA could approve a variance for a smaller than required lot size.

Bush provided a site plan that revealed the location of a possible septic system and replacement system along with information that the existing lot was once subdivided and then consolidated.

There was some discussion about the longevity of septic systems.

Leopold read through the following resolution:

***VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION ADOPTED ON MAY
3, 2022 FOR APPEAL NO. 2022-02.***

Motion made by: Roy Hogben

Motion seconded by: John Wisor

WHEREAS:

- A. This matter involves consideration of the following proposed action: Appeal No. 2022-02, Gary Ormsby is proposing a subdivision of an existing parcel located at 2570 North Triphammer Road (Tax Parcel #42.1-1-54) which contains 1.92 acres or 82,764 square feet and is located in the Medium Density Residential District. Lot A1 would be .97 acres (42,109 square feet) and contain the existing home. The minimum lot size, as per Village Code Section 145-40E(1)b[1] is 1.37 acres (60,000 square feet). The applicant is asking for a variance resulting in a 17,891 square foot deficiency of the Village Code; and*

- B. On May 3, 2022, 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 May 3, 2022, 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 May 3, 2022, 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:

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.

Finding: No

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, If one of the proposed lots was created to conform to Village Code, the other lot would be too small to build on.

Whether the requested area variance is substantial.

Finding: Yes, 17,891 square feet is substantial

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

Whether the alleged difficulty was self-created.

Finding: Yes

*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: *As described in "A"*

Conditions of Variance:

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

The vote on the foregoing motion was as follows:

AYES: Hogben, Leopold, Powell, and Wisor

NAYS: None

The motion was declared to be carried

Leopold read the following agenda item:

**VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION ADOPTED ON MAY
3, 2022 FOR APPEAL NO. 2022-03.**

Motion made by: John Wisor

Motion seconded by: Roy Hogben

WHEREAS:

- A. This matter involves consideration of the following proposed action: Appeal No. 2022-03, Gary Ormsby is proposing a subdivision of an existing parcel located at 2570 North Triphammer Road (Tax Parcel #42.1-1-54) which contains 1.92 acres or 82,764 square feet and is located in the Medium Density Residential District. LotA2 would be .95*

- acres (41,287 square feet) and would become a new building lot. The minimum lot size, as per Village Code Section 145-40E(1)b[1] is 1.37 acres (60,000 square feet). The applicant is asking for a variance resulting in a 18,713 square foot deficiency of the Village Code; and*
- B. On May 3, 2022, 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 May 3, 2022, 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 May 3, 2022, 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:

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.

Finding: No

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, If one of the proposed lots was created to conform to Village Code, the other lot would be too small to build on.

Whether the requested area variance is substantial.

Finding: Yes, 18,713 square feet is substantial

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

Whether the alleged difficulty was self-created.

Finding: Yes

*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: *As described in "A"*

Conditions of Variance:

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

The vote on the foregoing motion was as follows:

AYES: Hogben, Leopold, Powell, and Wisor

NAYS: None

The motion was declared to be carried.

Wisor moved to close the public hearing. Seconded by Hogben

Ayes: Hogben, Leopold, Powell, and Wisor

Nays: None

Leopold read through the next agenda item:

Public Hearing to Consider:

Michelle Benedict-Jones is proposing a subdivision of an existing parcel located at 1016 Cayuga Heights Road (Tax Parcel #43.1-1-26.5) which contains 2.289 acres or 99,708 square feet and is located in the Low Density Residential District. Parcel A would be 1.38 acres (60,112 square feet) and contain the existing home. Parcel B would be .906 acres (39,465 square feet) and be a new buildable lot. Parcel B does not meet Village Code Section 145-39E(1)b[1] for minimum lot size of 1.37 acres (60,000 square feet) and would require an area variance. The following is the appeal request:

Appeal No. 2022-04

Area Variance for Parcel B for 20,535 square feet.

Hogben moved to open the public hearing. Seconded by Wisor.

Ayes: Hogben, Leopold, Powell, and Wisor

Nays: None

Bush reviewed the appeal request. There is municipal water available.

Scott stated that a neighbor was concerned about the development of the corner parcel and the stormwater implications. That type of concern would be addressed by the Planning Board during the subdivision process and the Code Officer during construction.

Leopold read through the following resolution:

*VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION ADOPTED ON MAY
3, 2022 FOR APPEAL NO. 2022-04.*

Motion made by: John Wisor

Motion seconded by: Roy Hogben

WHEREAS:

- A. *This matter involves consideration of the following proposed action: Appeal No. 2022-04, Michelle Benedict-Jones is proposing a subdivision of an existing parcel located at 1016 Cayuga Heights Road (Tax Parcel #43.1-1-26.5) which contains 2.289 acres or 99,708 square feet and is located in the Low Density Residential District. Parcel B would be .906 acres (39,465 square feet) and would become a new building lot. The minimum lot size, as per Village Code Section 145-39E(1)b[1] is 1.37 acres (60,000 square feet). The applicant is asking for a variance resulting in a 20,535 square foot deficiency of the Village Code; and*

- B. *On May 3, 2022, 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 May 3, 2022, 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 May 3, 2022, 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:

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.

Finding: No, Unanimous

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, Unanimous

Whether the requested area variance is substantial.

Finding: Yes, 20,535 square feet is substantial.

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, Unanimous

Whether the alleged difficulty was self-created.

Finding: Yes, Unanimous

*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: *As described in "A"*

Conditions of Variance:

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

The vote on the foregoing motion was as follows:

AYES: Hogben, Leopold, Powell, and Wisor

NAYS:

The motion was declared to be carried.

Approval of Minutes

No minutes available.

Adjournment:

Leopold asked for a motion to adjourn at 7:47 PM. Moved by Wisor. Seconded by Hogben.

Ayes: Hogben, Leopold, Powell, and Wisor

Nays: None

Minutes taken by: Michael Scott, CEO