
Town of Lansing

Zoning Board of Appeals Meeting
Tuesday, May 16, 2017 6:30 PM

ZONING BOARD OF APPEALS MEMBERS

(*Denotes present)

- | | |
|----------------------------------|-----------------|
| * Linda Hirvonen | * Dan Konowalow |
| * Henry (Hurf) Sheldon, Chairman | * Judy Drake |
| * Maureen Cowen | |
| * Chris Williams, Alternate | |

Other Staff

- | | |
|----------------------------|----------------------------|
| * Lynn Day, Zoning Officer | * Sue Munson, Code Office |
| * Robert Cree, TB Liaison | * Guy Krogh, Town Attorney |

PUBLIC PRESENT

Rick Uhl	Aaron Eberle	Cindy Lion
Michael Anderson	Jeff Andersen	Katrina Westerberg

GENERAL BUSINESS

Chairperson, Henry (Hurf) Sheldon called The Town of Lansing Zoning Board of Appeals Meeting to order at 6:30 PM.

Chairperson, Henry (Hurf) Sheldon enacted Alternate Member Chris Williams as a voting Member this evening as Member Maureen Cowen will not be participating in the discussion or voting of the Use Variance that is being voted on this evening.

Chairman Henry (Hurf) Sheldon acknowledged that the Legal Notice was previously published in the Ithaca Journal as required by Law.

Approval/Denial of Minutes for: April 18, 2017

Page 4, Under Mr. Uhl: the word covert should read: **convert**.

Page 5, first paragraph: sufficient should read **significant**.

Linda Hirvonen made motion to approve as amended. Judy Drake seconded the motion and it was carried by the following roll call vote:

Vote of Zoning Board . . . (Aye) Judy Drake, Member
Vote of Zoning Board . . . (Aye) Linda Hirvonen

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Vote of Zoning Board . . . (Abstained) Dan Konowalow
Vote of Zoning Board . . . (Aye) Chris Williams, Alternate
Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair

Linda Hirvonen made a motion to open the Public Hearing on the Application made by Rick Uhl at 6:35 PM and to approve Chris Williams, Alternate as a voting member in place of Maureen Cowen. Judy Drake seconded the motion and it was carried by the following roll call vote:

Vote of Zoning Board . . . (Aye) Judy Drake, Member
Vote of Zoning Board . . . (Aye) Linda Hirvonen
Vote of Zoning Board . . . (Aye) Dan Konowalow
Vote of Zoning Board . . . (Aye) Chris Williams, Alternate
Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair

Chairman Henry (Hurf) Sheldon began the discussion to continue the Public Hearing from the previous Meeting of April 18, 2017.

Continuation of Public Hearing - Consideration of a Use Variance made by; Rick Uhl, 197 Lansing Station Road, Tax # 23.-1-2.1

Chairman Sheldon offered the following update with respect to the requested Use Variance that came before the April Zoning Board of Appeals Meeting;

Last Meeting we left off deciding that we needed the full Board present and additional information. Those present looked into proposed Zoning changes of the area and didn't see any in the offing that would make a difference with this case. There is no dispute about the illegal non-compliant Use by the Owner. To get a Use Variance there are four mandatory criteria questions, that the Zoning Board Members must review prior to making a final decision.

Dan Konowalow inquired is this building considered secondary to your income source? Rick Uhl replies, "It was my primary up until January. I also own an apartment in Groton."

Dan Konowalow states, that being the case, Mr. Uhl should be aware of the existence of Zoning Laws in various Townships. Mr. Uhl noted that this property in Lansing was the first one he had ever built.

Lynn Day notes for the record that Rick Uhl was the person that signed the Building Permit for the original Two Unit Building at 197 Lansing Station Road.

Dan Konowalow inquired after the completion of the Two Family Residence at 197 Lansing Station Road, did he receive the Certificate of Occupancy? Mr. Uhl did not recall.

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Linda Hirvonen inquired when does the lease expire for the Basement Apartment. Mr. Uhl indicated July or August. Current Tenants replied, July 31, 2017.

Chris Williams directed a question to Rick Uhl, you said the property was built around 2013 and it was your primary residence until January 2017. There was another resident in the building during that time as well? Rick Uhl replied, yes, it was built later in the year of 2013 and there was another resident in the other apartment during that time.

Chris Williams inquired at what time between 2013 and now was the third unit rented? Rick Uhl directed the question to the current tenant, she replied, back in April of 2015. Chris Williams inquired how many bedrooms and the amount for monthly rent on third unit and how is it heated? (To better understand Rick's claim of financial hardship) Rick Uhl replied it is a three bedroom apartment, \$1,300 per month, heated by electric and the cost to add the third unit was approximately \$60,000. For the record, the Basement Tenant stated they were not made aware the apartment was considered an illegal residence and recently found out about the Public Hearing by other sources.

Judy Drake requested clarification as to when the third apartment was built. Mr. Uhl replied late 2014 early 2015.

Chairman Henry (Hurf) Sheldon requested to know if there were any further Public comments before they close the Public Hearing.

Public Comments/Concerns

Michael Anderson – Caregiver/boyfriend of tenant in apartment B appeared before the Board on her behalf. Mr. Anderson indicated his girlfriend would benefit from moving into the ground floor due to her health condition. A Doctors Letter in support of her need/want to move to a handicap accessible Apartment was presented to the Board.

Chairman Henry (Hurf) Sheldon inquired from Rick Uhl if the Tenant in Apartment B was planning on moving in the basement apartment when the current tenants move out? Rick Uhl replied as long as the Board approves the Variance.

Chairman Henry (Hurf) Sheldon inquired if Rick Uhl could close anyone of the three apartments to conform to current Zoning requirements. There are issues with the need for Sprinklers due to Fire Code with the added third apartment. Lynn Day, Zoning Officer and Building Inspector states Mr. Uhl has no Building Permit, nor has the Electric and Plumbing been inspected for the third apartment. Mr. Day is in the process of working with Rick Uhl to provide him options. Town Attorney, Guy Krogh will provide guidance to Mr. Day along the way.

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Jeff Andersen, tenant from the third apartment, inquired if they should be concerned about the safety as they have an infant and a 5 year old. Mr. Day replied that anytime you have a renovation that does not have a Building Permit or proper inspections, in his opinion, is reason for concern.

Chairman Henry (Hurf) Sheldon inquired from Mr. Uhl, since the first two apartments were permitted and inspected, then why wasn't the third inspected? Rick Uhl replied, "I thought it was."

Chairman Henry (Hurf) Sheldon asked is there any further public comments. There were none.

Linda Hirvonen made a motion at 6:59pm to close the Public Hearing. Dan Konowalow seconded the motion and it was carried by the following roll call vote:

Vote of Zoning Board . . . (Aye) Judy Drake, Member
Vote of Zoning Board . . . (Aye) Linda Hirvonen
Vote of Zoning Board . . . (Aye) Dan Konowalow
Vote of Zoning Board . . . (Aye) Chris Williams, Alternate
Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair

Further Member Comments

Dan Konowalow remarks that the issue of accessibility in the basement apartment is a moot point for their deliberations. I think we need to set that aside.

Linda Hirvonen requested to set emotions aside too.

Chris Williams, Alternate inquired if the house was constructed in an area where Multi-Resident properties are not allowed. Chairman Henry (Hurf) Sheldon states it is Zoned for Two Family Multi Residents. Mr. Sheldon further stated that Mr. Uhl has enough land for Two, Two Unit Apartments.

Dan Konowalow inquired if the land area needs to be subdivided for two - two family buildings? Chairman Henry (Hurf) Sheldon replied, no, based on the square footage.

Dan Konowalow remarked that this is again a moot point as it is not the issue before the Board. The issue is, what do you do about a Building that has been added to without a Building Permit and is occupied without a Certificate of Occupancy. Mr. Konowalow states in his opinion, it's open and shut and cannot happen.

**Use VARIANCE FINDINGS AND DECISION
TOWN OF LANSING ZONING BOARD OF APPEALS**

BACKGROUND INFORMATION

Applicant: Rick Uhl

Variance No: 17-04

Zoning District: L1

Published Notice on: 03/30/17

Notice to County Sent on:

03/21/17

SEQRA Hearing Held On: N/A

Property Location: 197 Lansing Station Road

Tax Parcel #: 23.-1-2.1

Requirement for which Variance is Requested: Change existing Two Family Residence into a Three Family Residence

Applicable Section of Town Zoning Ordinance: 503-Schedule I of the Lansing Use Ordinance

RESOLUTION AND FINDINGS

WHEREAS, Rick Uhl has applied for a Use Variance and

WHEREAS, on April 18, 2017 and May 16, 2017 the Town of Lansing Zoning Board of Appeals (the "ZBA")

thoroughly reviewed and analyzed: (i) the information and evidence submitted by the Applicant(s) in support of the requested Use variance; (ii) all other information and materials properly before the ZBA; and (iii) the issues and impacts raised for consideration by neighbors, the public, and the ZBA; and

WHEREAS, each identified potential environmental impact was analyzed and duly considered by the Zoning Board of Appeals in relation to the question of whether any potential environmental impacts were so probable of occurring or so significant as to require a positive declaration, and after weighing the above and all other potential impacts arising from or in connection with this project, and after also considering: (i) the probability of each potential impact occurring; (ii) the duration of each potential impact; (iii) the irreversibility of each potential impact, including permanently lost resources of value; (iv) whether each potential impact can or will be controlled or mitigated by permitting or other processes; (v) the regional consequence of the potential impacts; (vi) the potential for each impact to be or become inconsistent with

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the Town's Comprehensive Plan and local needs and goals; and (vii) whether any known objections to the Project relate to any of the identified potential impacts, the Zoning Board of Appeals found that these factors did not cause any potential impact to be or be likely to become a moderate or significant impact such that a negative declaration will be issued.

WHEREAS, on April 18, 2017 and May 16, 2017 the ZBA, in accordance with Town Law § 267 *et seq.* and the Town of Lansing Land Use Ordinance, considered the Application and all materials before the ZBA and, in the course of deliberations, took into consideration the benefit to the Applicant if the Variance is granted as weighed against the detriment to the health, safety, and welfare of the neighborhood or community arising from the potential granting of an Use Variance.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town of Lansing Zoning Board of Appeals ("ZBA") hereby makes the following findings with respect to the specific criteria for Use Variances as set forth in Town Law § 267-b(3)(b), and other applicable provisions of law and of the Town Zoning Ordinance:

a. Whether the Applicant can not realize a reasonable return without the granting of the Use Variance?

Yes ____ No X

Findings: No substantive information has been provided.

b. Whether alleged hardship is unique and does not apply to substantial portion of district or neighborhood.

Yes ____ No X

Findings: No applicable circumstances.

c. Whether the requested Use Variance will alter essential character of the neighborhood.

Yes X No ____

Findings: Property is non-conforming in it's present configuration.

d. Whether alleged hardship has not been self-created.

Yes ____ No X

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Findings: Owner created non-conforming.

2. DETERMINATION BASED ON THE ABOVE FACTORS:

It is hereby determined by the Town of Lansing Zoning Board of Appeals (the "ZBA") that the following Use Variance is **DENIED**

THE VOTE ON THE FOREGOING DECISION, DETERMINATIONS, AND RESOLUTION OF THE TOWN OF LANSING ZONING BOARD OF APPEALS WAS AS FOLLOWS:

Member: Maureen Cowen - Recused

Member: Judy Drake - Aye

Member: Linda Hirvonen - Aye

Member: Daniel Konowalow - Aye

Alternate Member: Chris Williams - Aye

Chair: Henry (Hurf) Sheldon- Aye

Dated: May 16, 2017

Chairman Henry (Hurf) Sheldon, before we close the meeting I would like to officially Thank Rachel for her outstanding service. Rachel is retiring at the end of this month.

Dan Konowalow made a motion to adjourn the Meeting at 7:21 PM. Judy Drake seconded the motion.