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# Town of Lansing

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Tuesday, May 17, 2016 7:00 PM, Zoning Board of Appeals Meeting

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## ZONING BOARD OF APPEALS MEMBERS

(\*Denotes present)

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

### Other Staff

- \* Lynn Day, Zoning Officer

## PUBLIC PRESENT

Sean Whittaker  
Johnno Potts  
Kym Jackson  
Karen Edelstein  
Joseph Wetmore

## GENERAL BUSINESS

Chairperson, Henry (Hurf) Sheldon called The Town of Lansing Zoning Board of Appeals Meeting to order at 7:00 PM.

Mr. Sheldon reviewed the Agenda and acknowledged the Legal Notices pertaining to the two requests were published in the Ithaca Journal as required.

Alternate Dan Shea was enacted to vote this evening due to a Member being absent.

Judy Drake made a motion to open the Public Hearing at 7:01 PM on the Application request for an Area Variance. Linda Hirvonen seconded the motion and it was carried by the following roll call vote:

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**Vote of Zoning Board . . . (Aye) Judy Drake, Member**  
**Vote of Zoning Board . . . (Aye) Linda Hirvonen, Member**  
**Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member**  
**Vote of Zoning Board . . . (Aye) Dean Shea, Alternate**  
**Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair**

**Public Hearing - Application made by Karen Edelstein, of 397 Salmon Creek Road, Tax Parcel # 21.-1-1.4 for an Area Variance. Ms. Edelstein is requesting to erect a free standing ground mounted Solar Array 40 feet from the center of the road, in the RA District.**

Agent Johnno Potts of the Renovus Energy appeared before the Board on behalf of Ms. Edelstein. Mr. Potts offered the following justification for the Area Variance;

- 1 They have installed solar on the available roof space of their home.
2. They have installed a geo-thermal system to heat and cool the residence.
3. The only other space on their property that we could put solar is on a barn that is not structurally viable to support the array or oriented properly for solar.
4. They have purchased the wooded lot to the North of the proposed array location which creates a large barrier between it and any neighbors.
5. If the array was to be moved any further to the East on their property it would be shaded by trees located on the neighbors property and a large hill (immovable object).
6. Across the street to the West is a large agricultural field. Essentially the array would not be in view of any of the few close by neighbors. They live in a very low density residential area.

Mr. Potts provided additional material showing the sky line graphing of the shading at different locations and the percentage of the results. Mr. Potts further states New York State Energy Resources requires at least 80% of solar production in order for Ms. Edelstein to obtain full grant funding. Due to an embankment near the road, the arrays will not really be that visible.

The Tompkins County Planning Department offered the following response in regards to the 239 Review;

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April 26, 2016

Mr. Lynn Day, Code Enforcement Officer  
Town of Lansing  
PO Box 186  
29 Auburn Road  
Lansing, NY 14882

**Re: Review Pursuant to §239 -l, -m and -n of the New York State General Municipal Law**  
**Action: Area Variance for proposed ground mounted solar array at 397 Salmon Creek Road, Town of Lansing Tax Parcel #21.-1-1.4, RA Zoning District, Karen Edelstein, Owner; Renovus Solar, Applicant, Johnno Potts, Agent.**

Dear Mr. Day:

This letter acknowledges your referral of the proposal identified above for review and comment by the Tompkins County Planning Department pursuant to §239 -l and -m of the New York State General Municipal Law. The Department has reviewed the proposal, as submitted, and has determined that it has positive and beneficial inter-community, or county-wide impacts. Because of the contribution of this project to the County's renewable energy goals we recommend its approval.

Please inform us of your decision so that we can make it a part of the record.

Sincerely,



Edward C. Marx, AICP  
Commissioner of Planning

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**Public/Member Comments/Concerns**

Dean Shea inquired if the arrays could be stacked or vertical. Mr. Potts states due to the hill and the shading, they cannot.

Daniel Konowalow inquired what other possibilities have Renovus looked at other than 40 ft. from the center of the road? Mr. Potts states they have looked at the entire roof space available on the house, the barn and the entire space left on the property. The barn is pretty old.

Dean Shea indicated even if you strengthen the old barn's roof, it's still old.

Lynn Day, Building Inspector states he has seen many old barns have solar arrays placed on them with the approval of a Structural Engineer. Mr. Potts states they have placed many solar panels on barns, however hesitates it's a case by case and this particular barn would be very costly to bring up to standards prior to erecting arrays.

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Joe Wetmore states the closer the arrays are placed to the road, the greater the production. By putting panels on top (vertical), doesn't give nearly as much added benefit as the movement over to the west would. In addition, the move would allow them the 80% for entitlement to the funding.

Mr. Potts reiterated numerous times to Mr. Konowalow that moving the array will not meet the requirements that will benefit the Applicant the most.

Kym Jackson, neighbor that is close to the project. Ms. Jackson states she looks down to the Applicant's property and would not favor of adding vertical panels to the proposed array. She has no problem with the proposed project as presented.

Dean Shea made a motion to close the Public Hearing on the Application at 7:25 PM. 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, Member**  
**Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member**  
**Vote of Zoning Board . . . (Aye) Dean Shea, Alternate**  
**Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair**

### Further Member Comments/ Concerns

Daniel Konowalow the Town has a Law with regards to setbacks for a reason. Mr. Konowalow is in favor of solar electricity, however he feels the project could be curtailed by lessening the amount of panels used. By doing this, Mr. Konowalow feels they could place structure at the appropriate set back.

Judy Drake states the County 239 Planning Department reply certainly carries some weight on her. Ms. Drake states by allowing such Array, this does cut down on the footprint and help the environment.

Dean Shea states he visited the site and feels the obstacles are certainly not surmountable to the extent that the Applicant can probably take advantage of limited subsidies for a limited period of time whereas to have a project that will be viable and will give them enough return without having them cut tree, or tear down their barn, just to eliminate the shading. Mr. Shea is in favor of some sort of condition that would require screening/buffering between the road and Array that would not add additional shade to the Array.

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Linda Hirvonen suggested forsythia bushes. In addition, Ms. Hirvonen states she is very hesitant to set a precedent, but must agree with Judy and Dean that it is helping the environment.

Hurf Sheldon agrees with the other Members. In addition, the County letter does have an impact on his thoughts. Mr. Sheldon is in favor of our energy future and feels we should encourage solar, not discourage.

Dean Shea made a motion to open the Public Hearing at 7:37 PM on the State Environmental Review. Linda Hirvonen 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, Member**  
**Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member**  
**Vote of Zoning Board . . . (Aye) Dean Shea, Alternate**  
**Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair**

**Public Hearing - Consideration of the Environmental Significance, pursuant to the State Environmental Quality Review Act, Applicant, Karen Edelstein, of 397 Salmon Creek Road, Tax Parcel # 21.-1-1.4 for an Area Variance.**

Chairman Sheldon inquired if there were any public comments, there were none.

Members reviewed Part I of the SEQR form completed by the Applicant, and completed Part II & III.

Dean Shea offered the following Resolution. 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, Member**  
**Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member**  
**Vote of Zoning Board . . . (Aye) Dean Shea, Alternate**  
**Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair**

**RESOLUTION**

**WHEREAS**, on May 17, 2016, the Town of Lansing Zoning Board of Appeals, in performing its reviewing agency functions in conducting an environmental

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review in accordance with Article 8 of the New York State Environmental Conservation Law and SEQRA regulations: (i) pursued its thorough review of the project and the Applicant's SEAF, as well as a review of all other documents prepared and submitted with respect to this proposed action; and (ii) thoroughly analyzed the potential relevant areas of environmental concern of the project to determine if the proposed action may have any moderate or significant adverse impacts on the environment, including the criteria identified in 6 NYCRR § 617.7(c); and (iii) reviewed the SEAF on the record; 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 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.

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

1. After consideration of the potential environmental impacts, including those reviewed in accord with 6 NYCRR § 617.7(c), the Zoning Board of Appeals finds that the proposed action of approving the Area Variance have no moderate or significant negative environmental consequences or impacts.

2. This declaration is made in accord with Article 8 of the New York State Environmental Conservation Law and SEQRA regulations promulgated thereunder, and accordingly, the Zoning Board of Appeals of the Town of Lansing, based upon: (i) its thorough review of the SEAF, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review; (ii) its thorough review of the potential relevant areas of environmental concern to determine if the proposed action may have any moderate or significant adverse impact on the environment, including, but not limited to, the criteria identified in 6 NYCRR § 617.7(c); and (iii) its completion of the SEAF, including the findings noted therein (if any, and which findings are

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incorporated herein as if set forth at length), hereby makes a negative determination of environmental significance (“**Negative Declaration**”) in accordance with SEQRA for the above referenced proposed actions, and determines that an Environmental Impact Statement is therefore not required.

3. A Responsible Officer of the Zoning Board of Appeals of the Town of Lansing is hereby authorized and directed to complete and sign, as required, the determination of significance, confirming the foregoing Negative Declaration, which fully completed and signed SEAF and determination of significance shall be incorporated by reference in this Resolution."

Linda Hirvonen made a motion to close the Public Hearing on the SEQR at 7:46 PM. Dean Shea 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, Member**  
**Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member**  
**Vote of Zoning Board . . . (Aye) Dean Shea, Alternate**  
**Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair**

The Town of Lansing Zoning Board of Appeals (“ZBA”) hereby makes the following findings with respect to the specific criteria for Area 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 an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance?**

Yes\_\_ No X

Findings:

With a condition of screening be planted, 3Ft. x 10Ft. in size, located to the West of Array, there will be no undesirable change to the neighborhood.

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

Yes \_\_\_ No X

Findings: Terrain and existing Structures prohibit.

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**c. Whether the requested area variance is substantial?**

Yes X No \_\_\_\_

Findings:

**d. Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?**

Yes \_\_\_\_ No X

Findings:

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

Yes X No \_\_\_\_

Findings:

Judy Drake made a motion to approve the Area Variance as requested. Dean Shea seconded the motion.

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

Member: Judy Drake -Aye  
Member: Linda Hirvonen- Aye  
Member: Daniel Konowalow - Nay  
Alternate: Dean Shea - Aye  
Chair: Henry (Hurf) Sheldon - Aye  
Dated: May 17, 2016

Linda Hirvonen offered a friendly amendment to the granting of the Variance requesting the following screening condition be added to the Variance;

1. Shrubbery such as Forsythia or like be planted between the road and the Array. Sizing must be 3 Ft. high, extending 10 Ft. x 10 Ft. in length to the West of the Array. This condition must be completed prior to issuance of a Certificate of Compliance on the Array Building Permit.

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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, Member**
- Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member**
- Vote of Zoning Board . . . (Aye) Dean Shea, Alternate**
- Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair**

It is hereby determined by the Town of Lansing Zoning Board of Appeals that the request for an Area Variance is **GRANTED**.

**Whittaker-Use Variance**

Daniel Konowalow made a motion to open the Public Hearing at 8:11 PM on the Application. Dean Shea 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, Member**
- Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member**
- Vote of Zoning Board . . . (Aye) Dean Shea, Alternate**
- Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair**

**Public Hearing -Application for a Use Variance, submitted by Jennifer Whittaker to be located at 300 Portland Point Road in the Town of Lansing and otherwise known as Tax Map Parcel No. 36.-1-8.3. Ms. Whittaker is requesting a Variance to allow a Single Family Residence be constructed in the IR District.**

Mr. Whittaker appeared before the Board requesting a Use Variance to allow for a Residential Home to be built in the IR District where currently Residential Homes are not permitted. Mr. Whittaker submitted the following;

Sean and Jennifer Whittaker  
106 Reach Run  
Ithaca NY 14850

May 5, 2016

Dear Lansing ZBA Board,

We are requesting a variance to allow us to construct a new home on our property located at 300 Portland Point road. We are aware of a pending zoning change that would allow for our planned construction without a variance but have urgent needs. The existing house at 300 Portland point was built as a summer cottage and has several issues: frozen pipes, drafty doors

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and windows, cracked flooring and a sulfur well. We are concerned that the condition of the current home places a stress on our 70+ year old parents that live year round in the house. Secondly we have recently been approached with an unsolicited offer to purchase our 106 Reach Run property and are currently under contract to sell and would like to build a modern home on our lake property to house both my family and our parents, granting this variance would elevate our immediate housing needs and the concerns of the existing home.

We have already made several improvements to the property, we have constructed a large boat house, and made significant landscaping improvements with plantings, berms and additional lawn seeding.

We are committed to working closely with the town to assure that a high quality, tasteful construction will be built that is mindful of standards of the town, and respectful of our neighbors. We intend to keep the town informed of the state of our project on a regular basis with full disclosure, and in a manner that respects the ecology of the immediate area.

My wife Jennifer and I are lifelong residents of Tompkins County, I grew up on a dairy farm in Brooktondale and graduated from IHS in 1986 after attending college and earning my degree in mechanical engineering I returned home and took employment at NCR, today I own and operate 4 manufacturing companies employing 250 people in upstate NY. Jennifer grew up in Newfield and after graduation earned degrees from TC3 and Syracuse in Nursing she practiced as a family nurse practitioner in our community for many years. As our Children were approaching school age we decide to move to a smaller school district, we chose Lansing and in 2005 we moved into the home we constructed at 106 Reach run. We soon recognized Jennifer's parents desire to move closer to their grandchildren and coupled with our desire to own lakefront property we purchased the southern half of Portland point and moved our parents into the existing home on the 3 acre property.

Best regards,

Sean Whittaker

The following recommendation was offered by the Town of Lansing Planning Board;

### **TOWN OF LANSING Planning Board MEMORANDUM**

TO: ZBA Members  
FROM: Town of Lansing Planning Board  
RE: 300 Portland Point LLC – Use Variance  
DATE: May 10, 2016

At the Town of Lansing Planning Board Meeting dated May, 09, 2016 it was the recommendation of the Planning Board to support the granting of the Use Variance to

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allow for a Residential Home to be constructed for the purpose of improvement to the property in the IR District.

Lynn Day, Zoning Officer states the Town Board and Comprehensive Plan Committee are reviewing zoning changes within the Town and most likely the Portland Point lot in question will be changed to either the B1(Commercial Mixed Use) or L1 (Lakeshore) both of which allows Residential Homes.

Tompkins County Planning Department offered the following 239 recommendation;

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**Tompkins County**  
**DEPARTMENT OF PLANNING**

121 East Court Street  
Ithaca, New York 14850

Edward C. Marx, AICP  
Commissioner of Planning

Telephone (607) 274-5560

May 6, 2016

Ms. Rachel Jacobsen, Zoning Clerk  
Town of Lansing  
Box 186  
Lansing, NY 14882

**Re: Review Pursuant to §239 -l, -m and -n of the New York State General Municipal Law**  
**Action: Use Variance for the proposed single family home at 300 Portland Point in the Industrial/Research District, Town of Lansing Tax Parcel #36.-1-8.3, 300 Portland Point, LLC, Owner; Jennifer Whittaker, Appellant**

Dear Ms. Jacobsen:

This letter acknowledges your referral of the proposal identified above for review and comment by the Tompkins County Planning Department pursuant to §239 -l and -m of the New York State General Municipal Law. The Department has reviewed the proposal, as submitted, and has determined that it may have negative inter-community, or county-wide impacts as described below. We recommend modification of the proposal. If the Board does not incorporate the recommendations, such approval will require a vote of a supermajority (meaning a majority plus one) of all members of the decision-making body.

**Recommended Modifications**

- To ensure standards are consistently applied to lakefront residential uses we recommend the Town require that the proposed use adhere to all the standards that apply to single family residences in the Lakeshore zone as a condition of any approvals.

Please inform us of your decision so that we can make it part of the record.

Sincerely,



Edward C. Marx, AICP  
Commissioner of Planning

Ms. Hirvonen and Mr. Sheldon see no objection to the Use.

Dean Shea made a motion to close the Public Hearing on the Application at 8:19 PM. Linda Hirvonen seconded the motion and it was carried by the following roll call vote:

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**Vote of Zoning Board . . . (Aye) Judy Drake, Member**  
**Vote of Zoning Board . . . (Aye) Linda Hirvonen, Member**  
**Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member**  
**Vote of Zoning Board . . . (Aye) Dean Shea, Alternate**  
**Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair**

Linda Hirvonen made a motion to open the Public Hearing @ 8:20 PM on the State Environmental Review. 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, Member**  
**Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member**  
**Vote of Zoning Board . . . (Aye) Dean Shea, Alternate**  
**Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair**

**Public Hearing-Consideration of the Environmental Significance, pursuant to the State Environmental Quality Review Act, for a Use Variance, submitted by Jennifer Whittaker to be located at 300 Portland Point Road in the Town of Lansing and otherwise known as Tax Map Parcel No. 36.-1-8.3. Ms. Whittaker is requesting a Variance to allow a Single Family Residence be constructed in the IR District.**

Chairman Sheldon inquired if there were any public comments, there were none.

Members reviewed Part I of the SEQR form completed by the Applicant, and completed Part II & III.

Judy Drake offered the following Resolution. Dean Shea 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, Member**  
**Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member**  
**Vote of Zoning Board . . . (Aye) Dean Shea, Alternate**

**RESOLUTION**

**"WHEREAS**, on May 17, 2016, the Town of Lansing Zoning Board of Appeals, in performing its reviewing agency functions in conducting an environmental review in accordance with Article 8 of the New York State Environmental Conservation Law and SEQRA regulations: (i) pursued its thorough review of the project and the Applicant's SEAF, as well as a review of all other documents

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prepared and submitted with respect to this proposed action; and (ii) thoroughly analyzed the potential relevant areas of environmental concern of the project to determine if the proposed action may have any moderate or significant adverse impacts on the environment, including the criteria identified in 6 NYCRR § 617.7(c); and (iii) reviewed the SEAF on the record; 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 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.

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

1. After consideration of the potential environmental impacts, including those reviewed in accord with 6 NYCRR § 617.7(c), the Zoning Board of Appeals finds that the proposed action of approving the Use Variance have no moderate or significant negative environmental consequences or impacts.
2. This declaration is made in accord with Article 8 of the New York State Environmental Conservation Law and SEQRA regulations promulgated thereunder, and accordingly, the Zoning Board of Appeals of the Town of Lansing, based upon: (i) its thorough review of the SEAF, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review; (ii) its thorough review of the potential relevant areas of environmental concern to determine if the proposed action may have any moderate or significant adverse impact on the environment, including, but not limited to, the criteria identified in 6 NYCRR § 617.7(c); and (iii) its completion of the SEAF, including the findings noted therein (if any, and which findings are incorporated herein as if set forth at length), hereby makes a negative determination of environmental significance ("**Negative Declaration**") in

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accordance with SEQRA for the above referenced proposed actions, and determines that an Environmental Impact Statement is therefore not required.

3. A Responsible Officer of the Zoning Board of Appeals of the Town of Lansing is hereby authorized and directed to complete and sign, as required, the determination of significance, confirming the foregoing Negative Declaration, which fully completed and signed SEAF and determination of significance shall be incorporated by reference in this Resolution."

The Town of Lansing Zoning Board of Appeals ("ZBA") hereby makes the following findings with respect to the specific criteria for Area 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 an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area variance?**

Yes\_\_ No X

Findings:

**b. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an Area Variance?**

Yes \_\_\_ No X

Findings:

**c. Whether the requested Area Variance is substantial?**

Yes No X

Findings:

**d. Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?**

Yes \_\_\_ No X

Findings:

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

Yes X      No \_\_\_

Findings:

Dean Shea made a motion to approve the Variance as presented. Linda Hirvonen 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, Member**
- Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member**
- Vote of Zoning Board . . . (Aye) Dean Shea, Alternate**
- Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair**

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

**BACKGROUND INFORMATION**

Applicant: Jennifer Whittaker

Variance No: 16-04

Zoning District: IR

Published Notice on: 05/04/16

Notice to County Sent on:

04/12/16

SEQRA Hearing Held On:

05/17/16

Property Location: 300 Portland Point Road

Tax Parcel #: 36.-1-8

Requirement for which Variance is Requested: To Construct Residential Home in the IR (Industrial/Research) District

Applicable Section of Town Zoning Ordinance: Sec. 3 Schedule I, Schedule of Land Uses or Activities, Town of Lansing.

**RESOLUTION AND FINDINGS**

WHEREAS, Jennifer Whittaker has applied for an Use Variance and

WHEREAS, on May 17, 2016 the Town of Lansing Zoning Board of Appeals (the

**DRAFT**

“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 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 May 17, 2016 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 a Use Variance.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

It is hereby determined by the Town of Lansing Zoning Board of Appeals (the “ZBA”) that the following Use Variance is **GRANTED**, with any conditions hereafter stated (if any), it being further found and determined that (i) the benefit to the applicant outweighs any potential negative impacts or detriment to the neighborhood or community; and (ii) such Use Variance is the minimum necessary as adequate to grant relief and, at the same time, preserve and protect the character of the neighborhood and the safety and welfare of the community.

As Variances are exceptions based upon exigent need or emergency, should applicant fail to avail itself of the benefits of the above-described Use Variance within one year from the date hereof, this approval and such Use Variance shall

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expire. In cases where construction may be applicable, “avail itself of the benefits” shall mean a building permit obtained (if necessary) and substantial construction has commenced. Said one-year approval period may be extended for good cause by the ZBA if application for an extension is submitted before the expiration of the then applicable variance period.

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

- Member: Judy Drake - Aye
- Member: Linda Hirvonen - Aye
- Member: Daniel Konowalow - Aye
- Member: Dean Shea- Aye
- Chair: Henry (Hurf) Sheldon- Aye

Dated: May 17, 2016

**Approval/Denial of April 12, 2016 ZBA Minutes**

Pg. 4, Under Further Members, Sq. Ft. should be added after the number 2.

Pg. 5 Under Wall Sign Increase # 1, delete duplicate sentences.

Linda Hirvonen made a motion to approve the Minutes as amended. Dean Shea 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, Member**
- Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member**
- Vote of Zoning Board . . . (Aye) Dean Shea, Alternate**
- Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair**

**Code Officer’s Update**

**Dollar General**

Mr. Day states according to The Dollar General Sign Application, they have decided to reduce the size of their road side Sign to 32 Sq. Ft. and the Building Sign to 30 Sq. ft.

**Conditions on Approvals**

Mr. Day thought the condition placed on the Area Variance tonight was “right one”. Mr. Day states he has received numerous negative comments about the ground mounted Arrays not being required to be screened.

**Sign Law**

Mr. Day states he is in favor of recommending to the Town Board that the size of

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the road sign be reduced in the Sign Law. After speaking with the ZBA, they were in support of such change.

**Meeting Time Change**

Mr. Day requested that the Board consider changing the start time of their Meetings. After some discussion, it was determined that the new start time for the Zoning Board of Appeals Meeting will be 6:30 PM, effective immediately.

Linda Hirvonen made a motion to close the Meeting at 8:45PM. Daniel 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, Member**  
**Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member**  
**Vote of Zoning Board . . . (Aye) Dean Shea, Alternate**  
**Vote of Zoning Board . . . (Aye) Henry (Hurf) Sheldon, Chair**