
Town of Lansing

Tuesday, June 18, 2013 7:00 PM, Zoning Board of Appeals Meeting

ZONING BOARD OF APPEALS MEMBERS

(*Denotes present)

- | | |
|---|--------------------------|
| * Gregg Travis, Chairman | |
| Linda Hirvonen | * Dan Konowalow |
| * Henry (Hurf) Sheldon | * Donna Scott, Alternate |
| Judy Drake | |
| * Ruth Hopkins, Town Board Liaison | |
| Lorraine Moynihan Schmitt, ZBA Attorney | |
| * Lynn Day, Zoning Officer | |

PUBLIC PRESENT

Vicky Posso-Williamson
Jay Williamson
Randy Swearingen
Stephanie Swearingen
Brian Walawender

GENERAL BUSINESS

Chairman Gregg Travis called The Town of Lansing Zoning Board of Appeals Meeting to order at 7:00 PM and reviewed the Agenda with the Public.

Chairman Travis acknowledged the Legal Notice was duly published in The Ithaca Journal as required.

Public Hearing - Application & SEQR Review - Use Variance - Applicant: Randal Swearingen of 10 Waterwagon Road , Tax Parcel # 37.1-6-6.2

Daniel Konowalow moved to open the Public Hearing on the Application at 7:03 PM. Donna Scott seconded the motion and it was carried by the following roll call vote:

Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member
Vote of Zoning Board . . . (Aye) Donna Scott, Alternate
Vote of Zoning Board . . . (Aye) Henry Sheldon, Member
Vote of Zoning Board . . . (Aye) Gregg Travis, Chair

Application Discussion

Mrs. & Mrs. Swearingen are requesting a Use Variance from Section 503, Schedule I ,Business Uses # 24 of the Town of Lansing Land Use Ordinance. The Applicant's are requesting to sell Lawn & Compact Tractors with Implements as a seasonal business (summer months) in the R2 District whereas this is not a permitted business. Normally there are no more than four (4) tractors, but usually three (3) are present at one time. Mr. Swearingen states due to family medical issues, he would like to increase his income by some means of business.

Mr. Sheldon inquired if Mr. Swearingen had planned on removing more of the trees between the proposed site and the existing structure. Mr. Swearingen indicated he did not plan on it, although it really depended on what the County Planning Department recommended.

Mrs. Swearingen made it known to the Board that they take pride in their property and care for it in a neat and tidy manner.

Henry (Hurf) Sheldon inquired if the property Mr. Swearingen cleared was in the road right of way. Mr. Swearingen states he has not measured from the center of the road.

Lynn Day, Zoning Officer states a portion of the property is in the road right away, however, not where he has the tractors.

Donna Scott inquired if Mr. Swearingen felt it was important to have the Tractors out on East Shore Drive in order to sell them. According to Mr. Swearingen the answer is yes. He has had a lot less people looking at them since he removed most of them.

Henry (Hurf) Sheldon inquired if Mr. Swearingen would also put a sign out by the road in addition to the Tractors. Mr. Swearingen's reply was no.

Donna Scott made a motion to close the Public Hearing on the Application at 7:25 PM. Henry (Hurf) Sheldon seconded the motion and it was carried by the following roll call vote:

Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member
Vote of Zoning Board . . . (Aye) Donna Scott, Alternate
Vote of Zoning Board . . . (Aye) Henry Sheldon, Member
Vote of Zoning Board . . . (Aye) Gregg Travis, Chair

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Chairman Travis read the following reply from the Tompkins County Planning Department;



Ms. Rachel Jacobson, Planning/Zoning/Code Clerk
Zoning, Planning and Code Enforcement
Town of Lansing
Box 186
Lansing, NY 14882

Re: Review Pursuant to §239 -l and -m of the New York State General Municipal Law
Action: Use Variance for Lawn & Tractor Sales at Waterwagon Road and East Shore Drive, Tax Parcel No.37.1-6-6.2, Randal Swearingen, Owner/Appellant.

Dear Ms. Jacobson:

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 these recommendations into its approval, such approval will require a vote of a supermajority (meaning a majority plus one) of all members of the decision-making body.

The Department offers the following recommendation under General Municipal Law §239 -l and -m:

- As the proposed use is located along the heavily traveled Cayuga Lake Scenic Byway (Route 34) the tractor display area should not front Route 34 and sufficient landscaping should be required in order to be visually appealing from the Byway. Additionally, any associated signage should be designed so as to not detract from this scenic corridor.

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

cc: New York State Department of Transportation

Inclusion through Diversity

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Gary Stevens a neighbor could not be in attendance and dropped off the following hand written statement to be read aloud at the Meeting.

- Dangerous Intersection already, this will only increase stop & go traffic.
- Witnessed a car pulling off on the wrong side of the road so he could inspect a riding lawn mower.

Member's reviewed the following criteria for a Use Variance;

1. The Applicant cannot realize a reasonable return, as shown by the competent financial evidence. The lack of return must be substantial:
Yes___ No X

The Applicant did not provide financial information to the Board. Mr. Sheldon felt it was tough for the Applicant to come up with proof.

Gregg Travis states this property is not so unique that it can't be used in other ways that are allowed in the Town's Land Use Ordinance.

2. The alleged hardship relating to the property is unique. (The hardship may not apply to a substantial portion of the zoning district or neighborhood.) Yes___ No X

Gregg Travis states other permitted uses could be there.

Daniel Konowalow states there are other grandfathered businesses there.

3. The requested Use Variance, if granted will not alter the essential character of the neighborhood: Yes___ No X

Proof: There is a Commercial Operation across the street but, it is grandfathered and no frontage on Rte 34.

Lynn Day, Zoning Officer states if a grandfathered property changes hands, the new owner may continue the same Use within one year from purchase. After one year and the same use is not used, the grandfathered rights dissolve.

Donna Scott had concerns with allowing another non permitted business, this could be setting a precedence.

Gregg Travis indicated that it would be very difficult for the Code Officer to define what a "small operation" versus having ten or fifteen machines there would be. Once a use is permitted, it's a slippery slope.

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4. The alleged hardship has been self-created: Yes X No__

- DETERMINATION OF ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after reviewing the above four proofs, find:

Daniel Konowalow offered the following motion, the Applicant has failed to prove unnecessary hardship through the Application of the four test required by the state statues and therefore the Use Variance is denied. Donna Scott seconded the motion and it was carried by the following roll call vote:

**Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member
Vote of Zoning Board . . . (Aye) Donna Scott, Alternate
Vote of Zoning Board . . . (Aye) Henry Sheldon, Member
Vote of Zoning Board . . . (Aye) Gregg Travis, Chair**

**Public Hearing- Application & SEQR Review- Area Variance,
Applicant: Vicky Posso-Williamson , Myers Road, Tax Parcel # 32.-
1-37.431.**

Henry (Hurf) Sheldon made a motion to open the Public Hearing at 7:32 PM. Daniel Konowalow seconded the motion and it was carried by the following roll call vote:

**Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member
Vote of Zoning Board . . . (Aye) Donna Scott, Alternate
Vote of Zoning Board . . . (Aye) Henry Sheldon, Member
Vote of Zoning Board . . . (Aye) Gregg Travis, Chair**

The Williamsons' appeared before the Zoning Board requesting an Area Variance for the driveway length as Mrs. Williamson previously advised the Planning Office that they would like to subdivide the property. Mr. Williamson indicated that he and his spouse plan on building a home with a detached garage to the north. The Williamsons' would like to be able to extend their driveway closer to the house and not so far from the garage. Currently the driveway length is approximately 350' to the actual 7 acre lot, with 150' to where the garage would be located would still leave a large distance to the house.

Member/Public Discussion

Lynn Day, Zoning Officer advised all present that the Williamson's currently have an existing Flag Lot. A driveway for their own use such as a home and garage is permitted without an Area Variance. Mr. Day further stated Mrs.

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Williamson clearly indicated they were intending to Subdivide at the time of her Application submission.

Henry (Hurf) Sheldon had concerns with future Subdivision and another driveway off the proposed 800+ / driveway.

Lynn Day advised the Board that according to the town's Subdivision Rules and Regulations it clearly state no more than two (2) contiguous Flag Lots may be allowed. Mr. Day states to the east of this property, there is a 60' Flag Lot which was originally part of this parcel.

Mr. Williamson states he has children and they may want to build a home on a portion of the property in the future. Gregg Travis advised Mr. Williamson if in the near future they consider subdividing, they would again have to follow the same process for a Variance and a shared driveway would not work.

Daniel Konowalow suggested the possibility of turning the shared driveway into a Town Road, built to Town Specs, of course prior to getting Town Board approval.

The Board advised the Williamson's that they can use the existing driveway and extend it as long as they are going to use the land for their home.

Daniel Konowalow suggested for the future, that the Williamsons' think about their plan, and do the planning first.

Brian Walawender states a few years ago he came to a Planning Board Meeting where the Hays' were approved for two building lots with enough road frontage to build another house in the future. Mr. Walawender can not understand why the Williamsons' are having a problem now.

Henry (Hurf) Sheldon thought the approval should carry with the property. Mr. Sheldon states this should be in the records.

Lynn Day, Zoning Officer states if it was approved, the Town Rules & Regulations require that the Applicant file the signed Subdivision Map with the Tompkins County Clerk within 60 days from the date the Planning Board Chairman signed the Map. If not filed within that time frame, the approval is void and null.

Chairman Travis advised the Williamsons' to do their homework and return to the Board with this information.

Daniel Konowalow made a motion to table this Variance request until such time as the Chairman calls a Meeting regarding the findings of the Williamsons'. Donna Scott seconded the motion and it was carried by the following roll call vote:

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Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member
Vote of Zoning Board . . . (Aye) Donna Scott, Alternate
Vote of Zoning Board . . . (Aye) Henry Sheldon, Member
Vote of Zoning Board . . . (Aye) Gregg Travis, Chair

Other Business

- What issues are appropriate to bring before the Board of Zoning Appeals?

Dan Konowalow did not get to inquire about this at the Planning Federation Conference. Gregg Travis states he forward to all ZBA Members a document that Ruth Hopkins sent to him. The document says it does allow people to come to the ZBA Board for various reasons. Donna Scott also reminded the Committee of the Department of State document that describes various types of public initiatives that can be brought to the ZBA without going through the Code Office.

- How can Area Variances be incorporated into existing Deeds?

Gregg Travis will contact Lorraine Moynihan Schmitt, Esq. for the Zoning Board of Appeals and request that she give a written summary of how to/require this. Mr. Travis may also request that she attend a Meeting to discuss this issue further.

Proposed Draft Sign Ordinance

Donna Scott and Dan Konowalow worked together and brought their comments to the ZBA Board Members. Their comments were discussed and written comments were given to Lynn Day, Zoning Officer to bring before the Sign Ordinance Committee for their review. Lynn Day will provide Donna Scott with a copy of the ZBA comments for her to keep, as a reference.

Approval/Denial of May 21, 2013 Minutes

Daniel Konowalow made a motion to approve the Minutes as presented. Donna Scott seconded the motion and it was carried by the following roll call vote:

Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member
Vote of Zoning Board . . . (Aye) Donna Scott, Alternate
Vote of Zoning Board . . . (Aye) Henry Sheldon, Member
Vote of Zoning Board . . . (Aye) Gregg Travis, Chair

Donna Scott, Alternate Member expressed her views that our ZBA Minutes are minimal in content of the discussions. Gregg Travis responded he thought tapes of the Meetings were on file in the Planning Office, and Lynn Day clarified that

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they are. Gregg Travis states the Motions, Decisions and a basic description of the proposal is included in the Minutes. Lynn Day, Zoning Officer will advise the Members at the next Meeting what the Law requires.

Daniel Konowalow made a motion to adjourn the Meeting at 8:55 PM. Donna Scott seconded the motion and it was carried by the following roll call vote:

Vote of Zoning Board . . . (Aye) Daniel Konowalow, Member
Vote of Zoning Board . . . (Aye) Donna Scott, Alternate
Vote of Zoning Board . . . (Aye) Henry Sheldon, Member
Vote of Zoning Board . . . (Aye) Gregg Travis, Chair