

Village of Lansing
Board of Zoning Appeals
Minutes of October 19, 2021

The meeting of the Village of Lansing BZA in person and via Zoom was called to order at 7:05 PM by Chair, Lynn Leopold.

Present at the meeting:

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

Village Legal Counsel: William Troy

Village CEO: Michael Scott

Attending: Eric Goetzmann and John Langey representing Arrowhead Ventures; Janice Ormsby, Lisa Schleelein, John Courtney, Cynthia Weaver, and Mayor Ronny Hardaway.

Leopold described the following agenda item:

Arrowhead Ventures, represented by Eric Goetzmann, is appealing the Village of Lansing Code Enforcement Officer's issuance of a Stop Work Order on the Lansing Meadows project located on Oakcrest Road and the interpretation of Village Code Section 145-59D(9) as it pertains to building permits being withheld and suspended due to the Village Planning Board not extending Special Permit 4123 as referenced at the August 31, 2021 Planning Board meeting.

Appeal No. 2021-45, Interpretation of Village Code Section 145-59D(9) Conditions to Special Permits

Leopold turned the meeting over to Troy. Langey reintroduced himself and asked if the Board would allow Goetzmann to give a brief history of the project. It was granted. Goetzmann gave a review of the project (see zoom video for details, minutes 02:45-28:48).

After Goetzmann's presentation, Troy asked Goetzmann questions (see zoom video for details, minutes 28:50- 49:25).

Leopold stated that she believes everyone is working towards getting the Lansing Meadows project completed and that the issue at hand is that the special permit has expired. Langey stated that their position was that Goetzmann has a right to complete the project and, in that sense, the special permit is still valid. Langey feels that the Stop Work order benefits no one and that Goetzmann is continuing to try and complete the project even though there is a shortage of material and labor which Langey has seen in other municipalities. Langey would like the Board to consider that stopping this project would only delay it more when it is very close to completion at this point.

Troy asked Goetzmann more questions about when the remaining buildings would be completed.

Scott stated that the issue at hand is the appeal of his interpretation of the Village Code (Section 145-59D(9)).

Powell asked how long it would take to rent the units if the water were hooked up? Goetzmann explained the water hook up situation and what is involved. Powell asked what type of work would actually be stopped if all that is needed is the water and there is delay on getting parts anyway. Langey explained that the Stop Work Order would not allow any finish work at all to continue, sending work crews to other sites and potentially not getting them back. Goetzmann said that currently they are trying to finish the grading, seeding, and interior.

Scott, again, reminded everyone that the BZA was here this evening to decide whether he interpreted the Village Code correctly. Scott also stated that the issue of whether the special permit is still in effect is a Planning Board issue that cannot be overturned by the BZA. If the BZA agrees with Scott's interpretation, then the Stop Work order goes into effect. Agreeing with Scott and removing the Stop Work Order is not an option because that would be changing the Village Code, which the BZA does not have the authority. Scott continued by saying the only two choices are agreeing with his decision or not, remembering that to disagree would set a precedent.

Troy asked Scott why he issued the Stop Work Order. Scott said for a few reasons, one being the special permit no longer existed because it was not extended and was over 3 years old. Troy asked Scott what the connection was between a building permit and a special permit. Scott said that within every Village District, in this case the Lansing Meadows PDA, there are certain Uses that require a special permit review before a building permit can be issued.

Goetzmann said that the Lansing Meadow's Special Permit was amended in 2019 and therefore, the 3-year term restarted. Scott said there is nothing in the Code that states that.

Langey said that his client has acquired vested rights with the substantial completion of the project and a substantial investment. Langey stated that the Village needs to allow the completion of the project because it benefits everyone.

Troy asked Goetzmann how long it would take to get the water hooked up. Goetzmann said the needed parts are not in yet so it is difficult to say.

Scott felt that a BZA meeting was not the venue to discuss vested rights. That was a Planning Board issue. Langey disagreed. There is case law, similar to this case, that supports an overturning of a BZA decision by the Courts.

Langey asked Scott if he agreed that the project was certainly over 50% done. Scott agreed but said that is not his job. His job is to interpret and apply the Code and that is what he is doing in this case.

There was more discussion about the effects of stopping the project.

Leopold said that the BZA is in a difficult spot with this decision and asked for suggestions to fix this issue by agreeing with Scott and still have the Lansing Meadows project move ahead.

Langey stated that the BZA can still agree with Scott's interpretation of the Village Code but, state that Common Law states that the builder has vested rights to continue. This would allow the project to continue forward while not punishing Scott's interpretation.

Leopold asked if a decision like that would establish a precedent. Langey stated that an applicant would have to put together a substantial report detailing their argument.

Scott asked Langey how much needed to be done to be considered substantial. Langey said that that is in the eyes of the BZA.

Powell stated that if the BZA adopts the vested rights doctrine, then wouldn't the project have unlimited time to finish. Langey said that progress on the project would need to be shown.

Goetzmann requested that this appeal be tabled for further investigation.

The public hearing will remain open for the next BZA meeting scheduled for November 16, 2021.

Leopold read through the next agenda item:

Public Hearing to Consider:

Gary Ormsby, owner of 2570 North Triphammer Road (Tax Parcel #42.1-1-54), is requesting a hearing about the implications of a possible subdivision which would require the need for variance(s). The existing parcel contains 1.92 acres or 82,764 square feet and is located in the Medium Density Residential District. As per Village Code Section 145-40E(1)(b)[1], a one-unit residential building in a non-sewered area would require a 60,000 square foot lot.

Appeal No. 2021-46;

Variance request for a lot(s) less than 60,000 square feet.

Gillespie moved to open the public hearing for Appeal No. 2021-46. Seconded by Wisor

Ayes: Gillespie, Hogben, Leopold, Powell, and Wisor

Nays: None

Scott explained that this appeal is more of an information request than an actual variance request. Ormsby is looking to subdivide her parcel but, if done, would need some type of variance Ormsby

is looking for advice on the best and easiest way to make this happen. Scott described the situation of lot size if a minor subdivision were applied for.

There was discussion about District regulations and septic systems regulations. Ormsby has been to the Tompkins County Health Department to discuss a possible new system.

Powell suggested hiring a private engineer to design her septic system.

Weaver spoke and was just interested with what the appeal was about.

Powell moved to close the public hearing. Seconded by Hogben

Ayes: Gillespie, Hogben, Leopold, Powell, and Wisor

Nays: None

Approval of the August 21, 2021 Minutes

Gillespie motioned to approve the corrected August 21, 2021 minutes. Powell seconded.

Ayes: Gillespie, Hogben, Leopold, Powell, and Wisor

Nays: None

Adjournment:

Leopold asked for a motion to adjourn at 8:49 PM. Moved by Gillespie. Seconded by Powell

Ayes: Gillespie, Hogben, Leopold, Powell and Wisor

Nays: None

Minutes taken by: Michael Scott, CEO