

**Village of Lansing
Planning Board Meeting
July 13, 2009**

1 The meeting of the Village of Lansing Planning Board was called to order at 7:30 P.M. by
2 Chairman Ned Hickey. Present at the meeting were Planning Board Members Maria Stycos, Phil
3 Dankert, Mario Tomei and Richard Durst; Village Attorney David Dubow; Code Enforcement
4 Officer Ben Curtis; Trustee Liaison Lynn Leopold; and John Kidney; Ivar Jonson; and Leonard
5 Nissenson observing for the Community Party.

6
7 **Public Comment:**

8 Hickey opened the Public Comment Period. There being no one who wished to speak, Dankert
9 moved to close the Public Comment Period. Seconded by Tomei. Ayes by Hickey, Dankert,
10 Stycos, Tomei and Durst. Motion carried.

11
12 **Ross-Kidney Subdivision**

13 The next item on the agenda was Final Plat approval of the Ross-Kidney Subdivision, a minor
14 subdivision by Nancy Ross to divide one 10.13 acre lot into one .796 acre lot and one 9.334 acre
15 parcel. Approximately .115 acres of the .796 acre parcel will be added to the adjacent .46 acre lot,
16 known as 14 Dart Drive, pursuant to the provisions of Section 125-34 of the Village of Lansing
17 Code. The parcels are located in the Medium Density Residential District, Tax Parcel Numbers
18 46.1-1-6.24 and 46.1-1-5.15. Hickey opened the public hearing.

19
20 Curtis directed the Board's attention to the Ross-Kidney Subdivision Plat in their packets and
21 pointed out two notes that had been added. One states that the .115 acre parcel was to be
22 consolidated with Tax Parcel 46.1-1-5.15, and the other states that any future subdivision of Tax
23 Parcel 46.1-1-6.24 "will require a major subdivision plat in accordance with the Village of
24 Lansing Zoning requirements". John Kidney of 14 Dart Drive asked if there is enough road
25 frontage west of the lot he is acquiring for another building lot. Curtis replied that there was
26 101.50' and 100' is required, so yes there is. Dubow reminded the Board that they are combining
27 two actions – subdividing the large parcel into two parcels and then enlarging an existing lot by
28 transferring land from one of the newly created lots to an existing lot. He further noted that
29 because this is a minor subdivision, the action is exempt from SEQRA review. Kidney asked that
30 he be given 6 months to finalize acquisition and consolidation of the lots. Kidney asked how long
31 he had to build a house on the lot. Curtis replied that, once issued, a Building Permit is good for a
32 year and can be renewed twice for six months each. There is no deadline to apply for the permit.
33 Dankert moved to close the hearing, seconded by Durst, all in favor.

34
35 Dankert moved the following resolution, seconded by Stycos:

36
37 VILLAGE OF LANSING PLANNING BOARD RESOLUTION FOR FINAL
38 PLAT APPROVAL OF ROSS-KIDNEY MINOR SUBDIVISION ADOPTED ON
39 JULY 13, 2009
40

41 **WHEREAS:**
42

- 1 A. This matter involves consideration of the following proposed action: Final Plat
2 approval of the Kidney Subdivision, a minor subdivision by Nancy Ross to divide one
3 10.13 acre lot into one 0.796 acre lot and one 9.334 acre parcel. Approximately 0.115
4 acres of the 0.796 acre parcel will be added to the adjacent 0.46 acre lot, known as 14
5 Dart Drive, pursuant to the provisions of Section 125-34 of the Village of Lansing
6 Code. The parcels are located in the Medium Density Residential District, Tax Parcel
7 Numbers 46.1-1-6.24 and 46.1-1-5.15; and
8
- 9 B. On June 30, 2009, the Village of Lansing Planning Board, in accordance with
10 subsection D of Section 125-5 of the Village of Lansing Code, (i) reviewed the sketch
11 plan submitted with respect to this proposed action; (ii) classified the proposed
12 subdivision as a minor subdivision; and (iii) determined that the proposed enlargement
13 of Tax Parcel Number 46.1-1-5.15 (known as 14 Dart Drive and containing 0.46 acres)
14 by the addition of approximately 0.115 acres of the proposed 0.796 subdivided parcel
15 should be reviewed and acted upon in accordance with Section 125-34 of the Village of
16 Lansing Code as the enlargement of an existing lot, thereby waiving any and all other
17 Subdivision regulations under Chapter 125 of the Village of Lansing Code; and
18
- 19 C. On July 13, 2009, the Village of Lansing Planning Board, in accordance with Section
20 123-2 of the Village of Lansing Code, determined that the approval of the proposed
21 minor subdivision is a Type II action, and thus may be processed without further regard
22 to Article 8 of the New York State Environmental Conservation Law - the State
23 Environmental Quality Review Act ("SEQR); and
24
- 25 D. On July 13, 2009, the Village of Lansing Planning Board held a public hearing
26 regarding this proposed action, and thereafter thoroughly reviewed and analyzed (i) the
27 proposed final subdivision plat and accompanying materials and information presented
28 by and on behalf of the applicant in support of this proposed action, including
29 information and materials related to environmental issues, if any, which the Board
30 deemed necessary or appropriate for its review; (ii) the proposed enlargement of Tax
31 Parcel Number 46.1-1-5.15 (known as 14 Dart Drive, and containing 0.46 acres) by the
32 addition of approximately 0.115 acres of the proposed 0.796 subdivided parcel in
33 accordance with Section 125-34 of the Village of Lansing Code, and the waiver of any
34 and all other Subdivision regulations under Chapter 125 of the Village of Lansing
35 Code; (iii) all other information and materials rightfully before the Board; and (iv) all
36 issues raised during the public hearing and/or otherwise raised in the course of the
37 Board's deliberations;
38

39 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**
40

- 41 1. Based upon all of its foregoing review and action, it is hereby determined by the
42 Village of Lansing Planning Board that (i) approval of the proposed Ross-Kidney
43 Minor Subdivision is **GRANTED**, subject to the conditions and requirements set forth
44 below; (ii) the proposed Ross-Kidney Minor Subdivision is in part for the purpose of
45 enlarging the existing adjacent lot of John D. and Nancy S. Kidney (Tax Parcel Number
46 46.1-1-5.15, known as 14 Dart Drive, and containing 0.46 acres) by the addition of

1 approximately 0.115 acres of the proposed 0.796 subdivided parcel in accordance with
2 Section 125-34 of the Village of Lansing Code, and accordingly, such lot enlargement
3 is **GRANTED**, subject to the conditions and requirements set forth below, and together
4 with a waiver of any and all other Subdivision regulations under Chapter 125 of the
5 Village of Lansing Code;

6
7 Conditions and Requirements:
8

- 9 A. Conveyance of the 0.115 acres of the approved 0.796 subdivided parcel
10 to John D. and Nancy S. Kidney, the record property owners of the
11 adjacent lot (Tax Parcel Number 46.1-1-5.15, known as 14 Dart Drive,
12 and containing 0.46 acres), and consolidation therewith, all in
13 accordance with Section 125-34 of the Village of Lansing Code and
14 such other applicable procedures and requirements of the Village of
15 Lansing and County of Tompkins, written evidence of such conveyance
16 and consolidation to be provided to the Village of Lansing Planning
17 Board, Village Clerk and Village Zoning and Code Enforcement
18 Officer within six (6) months following the adoption of this resolution.
19
- 20 2 The Chairperson of the Village of Lansing Planning Board is hereby authorized and
21 directed to sign the final plat for the approved minor subdivision in accordance with
22 subsection F of Section 125-6 and subsection A of Section 125-15 of the Village of
23 Lansing Code.
24

25 The vote on the foregoing motion was as follows:

26
27 **AYES: Phil Dankert, Mario Tomei, Maria Stycos, Richard Durst and Ned Hickey**

28
29 **NAYS: none**
30

31 The motion was declared to be carried.
32
33

34 **Lansing Heights Subdivision Amendment**

35 Hickey reminded the Board that they had discussed the proposed amendment at the last meeting
36 and classified it as a minor amendment. The developer, Ivar Jonson, is proposing to eliminate the
37 future north-south road, Village Park Way, which connects the northern and southern ends of Nor
38 Way. The road does not serve any real purpose and eliminating it will result in less road to be
39 built, less road to be maintained over the years, and more parkland as the land originally set aside
40 for the road will be combined with other parkland to be dedicated to the Village. The short section
41 of Village Park Way which connects the southern end of Nor Way with Janivar Drive will be
42 constructed along with a short drive going north with parking area for access to the parkland. The
43 same will be done at the north end of Nor Way where it will connect to the Craft Road extension.
44 This will leave in place three way intersections with stop signs at either end of Nor Way to slow
45 traffic and deter through traffic between North Triphammer Road and Warren Road. Discussion
46 ensued regarding the naming of the small sections of Village Park Way that would remain. The

1 Board agreed they should combine with Nor Way and be so named. Jonson asked if the name
2 Bomax Circle could be changed. Curtis replied that Jonson could petition for a name change and
3 the petition should include the signatures of anyone who had bought a property on Bomax Circle.
4

5 Hickey noted that the parking area on the north end of the abandoned Village Park Way should be
6 extended south to line up with the rear property line of the adjacent townhouses. This will permit
7 the Public Works crew to access a stormwater management practice to the west. It also better
8 accommodates a driveway for a house adjoining the parking area. Jonson agreed to do that.
9

10 Dubow noted that the resident at 20 Ayla Way currently has an easement for his driveway to cross
11 property which was to become Village Park Way and connect to the existing turn around at the
12 end of Ayla Way. The easement anticipates the construction of Village Park Way at which time
13 the owner of 20 Ayla Way would be required to connect the drive way to Village Park Way at the
14 owner's expense. Under the proposed amendment Village Park Way would not be built and
15 presumably the easement would become permanent. This may be inconsistent with the
16 expectations of the owner of 20 Ayla Way. Jonson stated that it was known that the road might
17 never be built and the easement was conveyed with that understanding.
18

19 Responding to a question from Tomei, Jonson confirmed that he would be putting in the water line
20 first and then completing the southern piece of Nor Way connecting to Janivar Drive. Dubow
21 noted that because this is a minor amendment, no SEQRA review is required. There being no
22 further questions, Tomei moved the following resolution, seconded by Stycos:
23

24 VILLAGE OF LANSING PLANNING BOARD RESOLUTION FOR
25 LANSING TRAILS II SUBDIVISION MINOR AMENDMENT ADOPTED
26 ON JULY 13, 2009
27

28 **WHEREAS:**
29

- 30 A. This matter involves consideration of the following proposed action: A minor
31 amendment to the previously approved Final Plat for the Lansing Trails II Subdivision,
32 such amendment being intended to eliminate a portion the proposed public road to be
33 designated Village Park Way as more particularly set forth in the proposed "Revised
34 Plan for Lansing Trails II" dated 6/15/09 and prepared by Lawrence P. Fabbroni,
35 Fabbroni Engineering & Surveying, Licensed Professional Engineer, the previously
36 approved Lansing Trails II Subdivision being a major cluster subdivision that divided
37 three lots totaling 32.78 acres into multiple building lots for zero lot line townhouses
38 and single family homes and residual land owned in common; the subdivision is east of
39 the Lansing Trails I Subdivision and west of Borg Warner and the Bomax Business
40 Park, and is located in the Medium Density Residential District; and
41
- 42 B. On May 9, 2005, the Village of Lansing Planning Board granted Final Subdivision Plat
43 Approval, with attached conditions and requirements, for the Lansing Trails II
44 Subdivision, such Final Plat Approval having been subsequently amended from to time
45 in accordance with Section 125-15, subsection C, of the Village of Lansing Code; and
46

- 1 C. On June 30, 2009, the Village of Lansing Planning Board, in accordance with
2 subsection C of Section 125-15 of the Village of Lansing Code, (i) preliminarily
3 reviewed the proposed action, including the proposed “Revised Plan for Lansing Trails
4 II” dated 6/15/09 and prepared by Lawrence P. Fabbroni, Fabbroni Engineering &
5 Surveying, Licensed Professional Engineer; and (ii) determined that the proposed
6 changes and alterations constituted a “minor change” to the Final Plat for the Lansing
7 Trails II Subdivision that could be permitted after review and approval by the Village
8 of Lansing Planning Board without a public hearing; and
9
- 10 D. On July 13, 2009, the Village of Lansing Planning Board, in accordance with Section
11 123.2 of the Village of Lansing Code, determined that the approval of the proposed
12 “minor change” to the Final Plat for the Lansing Trails II Subdivision is a Type II
13 action, and thus may be processed without further regard to Article 8 of the New York
14 State Environmental Conservation Law - the State Environmental Quality Review Act
15 (“SEQR); and
16
- 17 E. On July 13, 2009, the Village of Lansing Planning Board thoroughly reviewed and
18 analyzed (i) the “Revised Plan for Lansing Trails II” and accompanying materials and
19 information presented by and on behalf of the applicant in support of this proposed
20 action, including information and materials related to environmental issues, if any,
21 which the Board deemed necessary or appropriate for its review; (ii) all other
22 information and materials rightfully before the Board; and (iii) all issues raised in the
23 course of the Board’s deliberations;
24

25 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**
26

- 27 1. Based upon all of its foregoing review and action, it is hereby determined by the
28 Village of Lansing Planning Board that approval of the proposed “minor change” to the
29 Final Plat for the Lansing Trails II Subdivision is **GRANTED**, subject to the
30 conditions and requirements set forth below:
31

32 Conditions and Requirements:
33

- 34 a. Final review and approval by the Village of Lansing Zoning and Code
35 Enforcement Officer and Village of Lansing Engineer of the revised and
36 amended Final Plat for the Lansing Trails II Subdivision to confirm that (i)
37 the “minor changes” approved by this resolution are fully and accurately
38 set forth and (ii) no other unapproved changes, alterations or amendments
39 are included.
40
- 41 b. All Conditions of Final Plat Approval For Lansing Trails II Subdivision as
42 set forth on Schedule A of the Final Plat Approval Resolution adopted on
43 May 9, 2005, unless otherwise amended prior hereto or by this resolution,
44 shall continue to be fully binding and effective.
45

- 1 2. The Chairperson of the Village of Lansing Planning Board is hereby authorized and
2 directed to sign the revised and amended Final Plat for the Lansing Trails II
3 Subdivision in accordance with subsection A of Section 125-15 of the Village of
4 Lansing Code.

5
6
7 The vote on the foregoing motion was as follows:

8
9 **AYES: Phil Dankert, Mario Tomei, Maria Stycos, Richard Durst and Ned Hickey**

10
11 **NAYS: none**

12
13 The motion was declared to be carried.

14
15 **Zoning Review**

16 Hickey stated that the assignment for the next meeting would be Sections 145-47,48, 50 & 51-55.
17 He noted there is no Section 145-49 in the Law. For the following meeting on August 10 he
18 assigned all of Section 145-59 which pertains to Special Permits. He explained that he had skipped
19 the sections pertaining to Building Permits because they are the responsibility of the Code
20 Enforcement Officer. Before turning to tonight's review, Hickey informed the Board that they
21 could get training at Onondaga Community College on August 4. The classes run all day and there
22 are several workshops that might be beneficial particularly for new members. The cost is \$70 plus
23 transportation, and that will be reimbursed from the Planning Board budget. Anyone interested in
24 attending can just go to workshops that interest them and need not stay for all the classes. They
25 should check with Hickey for the details.

26
27 Hickey then opened the discussion of Section 145-82, noting that he took this section out of order
28 because it explained the various uses and terms used elsewhere in the Code and he thought it
29 important to understand those terms before reviewing the other sections. There are forty different
30 categories of use in the Code and this Section explains what each one is and what sort of activities
31 are included in each category. Hickey noted that under *one-unit* and *two-unit residential building*
32 certain incidental activities such as keeping pets are included, but that the number of dogs over six
33 months old is limited to three. Chickens and cats, on the other hand are not limited. Curtis noted
34 that such animals are essentially pets accessory to residential living. If they were being raised
35 commercially, then they would fall under the use category, *commercial crop/animal*.

36
37 Under *group residential*, Hickey noted that, in previous discussions, the Board had recognized
38 there was no real provision for assisted living or senior housing in the Code. He suggested that the
39 Board may want to address this deficiency by recommending a category of use be added that
40 includes these activities. Curtis noted that *group residential* includes activities such as fraternity
41 and sorority and rooming house which might not be compatible with residential neighborhoods
42 and is therefore limited to the High Density Residential and Commercial Low Traffic Districts.
43 Assisted living or senior housing with low traffic generation and very little noise, on the other
44 hand, may be very compatible with residential neighborhoods. Assisted living does involve
45 aspects like staff, parking, deliveries, etc. and therefore should be subject to Special Permit

1 provisions. Hickey pointed out to the Board that the Table in Section 145-81 immediately
2 preceding this section showed in which districts each of the 40 categories of use were permitted
3 and whether Special Permits are required or Additional Conditions imposed.
4

5 Curtis noted that probably the closest use to *group residential* that the Village currently has is the
6 Racker Center group residence for severely disabled adults on Highgate Circle, and State
7 regulations do not permit the Village to classify or treat that facility as other than a one family
8 dwelling. Although Highgate Circle is in the Medium Density Residential District, few people
9 even realize that it is there unless there is a staff meeting and parking on the street. Dubow pointed
10 out that there is an undeveloped High Density Residential parcel which is the second parcel
11 donated to the Village by the Edelmans on Wood Trush Hollow Road and senior housing or
12 assisted living might be a good use for that parcel. Hickey suggested this is an issue that should be
13 added to the “to do” list. Curtis responded that the meeting minutes over the course of the review
14 will provide a pretty good list of the items that warrant more attention in the follow up. Dubow
15 suggested that it might be worthwhile to invite a speaker with expertise in senior housing to speak
16 to the Board.
17

18 Curtis noted that under *multiunit residential building* keeping more than three dogs over 6 months
19 old is not permitted, but it is not clear whether this means per building or per unit, neither of which
20 interpretation may yield a desirable outcome. This can be added to the list.
21

22 Moving on Hickey asked if the definition of *cluster housing* was current with all State regulations.
23 Curtis suggested *cluster housing* should not be listed as a category of use since it is in fact simply
24 a way of arranging other uses – generally *one-unit* and *two-unit residential buildings*, and is a
25 function of the Subdivision Regulations and not the Zoning Law. It makes no sense to make
26 *cluster housing* subject to Special Permit approval and Additional Conditions and, in reality,
27 Special Permits have not been required as a condition for issuing Building Permits in approved
28 clustered subdivisions. Hickey added it to the list. Dubow noted that deleting the category of use
29 would also entail removing it from a number of sections where it is cross referenced.
30

31 Under *home occupation*, Curtis suggested referencing Subsection 145-60D which spells out in
32 detail the requirements for a home occupation. Dubow noted that to be consistent this would entail
33 such references for the other uses with additional conditions. The Board agreed to leave this as is.
34

35 With regard to *mixed use*, Dubow stated that the definition states that it is “a parcel developed for
36 both residential and commercial uses”. He noted that at an earlier meeting Curtis had stated that
37 *mixed use* referred to a building developed for both residential and commercial use. He has
38 discussed the matter with Curtis and they agreed the distinction should be brought to the Board’s
39 attention. A mixed use could involve a single building on a parcel, but it could also involve
40 separate buildings with one or more being solely residential and other(s) being solely commercial.
41

42 Regarding *office/studio/service*, Dubow noted that this has been something of a catchall and a
43 work in progress. It has changed over time as new and unanticipated uses have emerged, finer
44 distinctions in uses such as food service have been needed. Curtis stated that he explains the
45 category as including uses where those involved are likely to come and spend an hour or more as

1 opposed to mercantile where a transaction may take 10 or 15 minutes, and that seems to give
2 people a better sense of what would be included in the category. He suggested possibly adding
3 such an explanation to this section. The Board agreed that leaving such explanation to the code
4 officer seems to work and there is no real reason to change it.

5
6 Regarding *construction sales/storage*, Hickey noted this is a category of use that had raised some
7 concern earlier. He pointed out that there is another category, *warehousing/storage/distribution*,
8 and the two refer to different activities. He pointed out that in *construction sales/storage* the
9 storage is limited to indoor storage of construction materials and the sales are limited to mostly
10 over the counter sales which has the effect of excluding the big box building materials outlets.
11 *Warehousing/storage/distribution* is not so restricted, but is permitted only in the Commercial
12 High Traffic and Business and Technology Districts, and permitted there only with Additional
13 Conditions. He noted further that the self-storage units that had concerned the Board would fall
14 into *warehousing/storage/distribution* and hence would not be permitted in the Commercial Low
15 Traffic District. The Board was satisfied that the restrictions on *construction sales/storage* are
16 sufficient.

17
18 Commenting on *low traffic food and beverage* and *high traffic food and beverage*, Dubow
19 reminded the Board that these categories of use had been developed when the food service
20 business at the B&T Park had approached the Village. The intent was to more clearly specify the
21 type of restaurant or food service business that would be appropriate in the Commercial Low
22 Traffic or Business and Technology District as opposed to one such as McDonald's that should be
23 limited to the Commercial High Traffic District. *Low traffic food and beverage* is further restricted
24 by Additional Conditions for the Business and Technology District. Curtis noted that in the B&T
25 Park, the intention is to allow a food service business to provide meals for people working in the
26 Park, but not to permit a restaurant that draws people to the Park for no other purpose than to have
27 a meal. Hickey added that it was not intended that a food service business in the Park compete
28 with the food service businesses in the Commercial Districts in the Village. Curtis added that the
29 restrictions on food service businesses in the B&T Park have made it difficult for such a business
30 to succeed. The current business will be closing and it is likely that any business coming in to take
31 its place will approach the Board for a change in the Additional Conditions to make such a
32 business viable. Hickey noted that when people eat in place, so to speak, there are some
33 advantages in terms of traffic reduction. Curtis added that there is some potential for dining in the
34 hotel and it is unclear why the airport did not replicate the popular restaurant, Brian's Landing, in
35 the new airport building. The Board agreed to leave the category unchanged pending any request
36 to change it.

37
38 Regarding *low impact technology*, Curtis noted that the primary distinction between that and *light*
39 *industry/manufacturing* is that the former receives and ships almost exclusively with light trucks
40 like UPS, Fed Ex, etc. with little or no tractor trailer traffic and hence was deemed suitable for the
41 Commercial Low Traffic District. Dubow questioned why *low impact technology* is not permitted
42 in the Business and Technology District. Curtis responded that *low impact technology* is simply a
43 more restricted form or subset of *light industry/manufacturing* which is permitted in the Business
44 and Technology District and hence, it could be argued is inherently permitted where *light*
45 *industry/manufacturing* is permitted. Dubow suggested that the Board might consider adding it as

1 an explicitly permitted use in the Business and Technology District. Hickey noted that he has
2 observed tractor trailer deliveries at the Mold Flow building on North Triphammer which have
3 resulted in traffic disruption because the site is not designed to handle that size truck. Before
4 leaving this category of use, Dubow noted a typo – instead of “loading dock”, the text read
5 “leading dock”.

6
7 Hickey again noted that this process of review is valuable in that it acquaints Board members more
8 fully with what is in the Zoning Law they have to work with.

9
10 **Bolton Estate Subdivision MOU**

11 Dubow informed the Board that he, Hickey, Curtis, Tomei and Village Engineer Brent Cross had
12 met with the Developer, Ed Crossmore, his Project Engineer, Andy Sciarabba and his attorney,
13 Ralph Nash and that the memorandum was much improved from the draft distributed at the
14 previous meeting. He added that the language of the Conservation Easement is a separate matter
15 which he did not want to broach until the issues with the MOU are resolved. He suggested,
16 however, that the Board Members review the easement in preparation for that discussion which
17 will come later. Hickey asked Curtis to distribute the most recent version of the draft
18 memorandum of understanding as follows:
19

20 **CLEARING POLICY – BOLTON ESTATE SUBDIVISION**

21
22 In accordance with the Stormwater Pollution Prevention Plan approved by the New York State
23 DEC, certain restrictions apply pertaining to the clearing of land within the Bolton Estate
24 Subdivision. The purpose of limiting clearing to the areas specifically designated on the Bolton
25 Estate Final Subdivision Plat is to properly control storm water runoff. When trees and brush are
26 removed and lawns, driveways and homes are built, stormwater flows at a faster rate and less
27 runoff is absorbed by the ground. This results in erosion, flooding and transport of pollutants such
28 as sediment, phosphorous and nitrogen.
29

30 To control these impacts, three stormwater management practices were constructed as part of the
31 Stormwater Pollution Prevention Plan approved by the New York State DEC to temporarily hold
32 the increased volume of stormwater, control how fast it flows off site, and provide filtering of
33 pollutants.
34

35 A goal of the subdivision was to leave as much land as possible in a substantially natural state.
36 Accordingly, a clearing limit of no more than 1.5 acres was imposed for each residential lot for the
37 construction of a home, driveway, septic system, lawns and landscaping. This maximum 1.5 acre
38 limit was the basis of design for the approved stormwater practices. Subject to the restrictions
39 provided for in Notes 1 and 5 on the Bolton Estate Subdivision Final Subdivision Plat, and subject
40 further to prior written approval being granted by the Village Code Enforcement Officer, the
41 designated clearing limit within a lot may be moved and reshaped, but not enlarged.
42

43 Outside of the designated clearing limit, an owner of a residential lot shall be permitted to top or
44 remove up to four trees of four inches (or greater) in diameter per each acre of total lot size. A
45 tree’s diameter shall be measured at a point two feet above the ground. The owner may remove an
46 additional tree having a diameter of four inches (or greater) from the area outside the clearing limit
47 for every tree of four inches (or greater) in diameter that the owner does not remove from, or plants

1 in, the area within the designated clearing limit. All of the foregoing tree removal or topping rights
2 shall be subject to the approval requirements set forth below.
3

4 Outside of the designated clearing limit, an owner shall be further permitted, subject to the
5 approval requirements set forth below, to clear brush on no more than 10% of the total remaining
6 lot area. Clearing of brush shall be defined as follows: The cutting and removal of brush or trees of
7 less than 4 inches in diameter with the tree stump and root-mass left in-tact. Cleared areas will be
8 left to naturally re-vegetate.
9

10 Prior to any of the foregoing tree topping, tree removal or brush clearing being undertaken, the
11 Village Code Enforcement Officer shall be notified in writing as to the specific tree topping, tree
12 removal and/or brush clearing being proposed, and the prior written approval for such topping,
13 removal or clearing shall be obtained from said Code Enforcement Officer. Alternatively, if a
14 property owner proposes to top or remove trees and/or clear brush in excess of what is otherwise
15 permitted by the restrictions set forth above, such property owner may submit for review and
16 approval by the Village Code Enforcement Officer a plan and report signed and sealed by a
17 Professional Engineer which details measures to be implemented to create a neutral impact on
18 stormwater runoff. In exercising his or her rights with respect to the foregoing review and approval
19 procedures, the Village Code Enforcement Officer shall be entitled to consult with the Village's
20 engineer and such other parties as deemed appropriate.
21
22

23 Dubow noted that he thought Village approval of any removal of vegetation essential and having
24 the Code Officer exercise that authority is probably the most effective procedure, but he is
25 concerned that there are no stated criteria the Code Officer must apply in making his or her
26 determination. Without such criteria the Village may be exposed to a challenge arguing that the
27 Code Officer's decision is arbitrary and capricious. Curtis responded that were he making such a
28 determination he would rely on the criteria stated in the MOU, confirming that the size of tree,
29 location, percentage of vegetation, etc. proposed for removal conformed with that permitted to be
30 removed under the MOU. For an alternate engineered plan proposed as creating neutral impact
31 with regard to stormwater, he would simply submit the plan to the Village Engineer for review and
32 respond in accordance with the Village Engineer's determination. In either case there are clear
33 criteria. Dubow agreed that was the case, but noted that in practice there was the potential for a
34 determination to be made which might not be supported by the criteria set forth in the MOU. In
35 the case of a specimen tree, the Code Officer might suggest the owner choose a different tree, but
36 the owner would be within his, her or its rights to remove the tree unless the Code Officer acted in
37 an arbitrary and capricious manner and refused to grant the requisite approval.
38

39 With regard to specimen trees, Dubow stated that under the draft MOU as presented the Code
40 Officer lacked the basis to withhold approval to remove such a tree simply because it is a
41 specimen tree. He does not know, however, if Crossmore might agree to permit the Village to
42 mark some number of the more spectacular trees and give the Code Officer the authority to
43 withhold approval to remove any of those specific trees. Leopold stated that she would be willing
44 to participate in such a project. Stycos volunteered to help as well. Dubow noted that any such
45 provision should be part of this MOU as it will be difficult to go back and add it at some time in
46 the future. Curtis will contact Sciarabba and ask if they would consider making some
47 accommodation for specimen trees in the MOU. Leopold will try to put together a definition of a

1 specimen tree and get it to Curtis. Criteria that came immediately to mind were straight, over 18”
2 in diameter, a valuable variety, healthy, etc.

3
4 Dubow noted that the draft MOU as written permits the removal of four trees for each acre of lot
5 size whereas the clear intent is that it be four trees per acre of lot size outside of the clearing limits.
6 He will make the change in the draft MOU before sending it back to Crossmore.

7
8 **Approval of Minutes**

9 The minutes of the June 30 meeting were not available.

10
11 **Reports**

12 *Trustees* – Dankert had nothing to report

13
14 *Airport Obstruction Removal* – Curtis directed the Board’s attention to a map on the wall and
15 reported that he had been notified by Airport Manager Bob Nicholas that to comply with FAA
16 requirements they would be removing some significant tree cover along Warren Road in front of
17 Borg Warner and to a lesser degree along Brown Road near the 911 center. He will be doing
18 some replanting with shorter varieties. He agreed to check with RPM in Dryden which has
19 developed fast growing trees with high survival rates.

20
21 **Adjournment:**

22 Dorst moved to adjourn at 9:50 P.M. Seconded by Stycos. Ayes by Hickey, Dankert, Tomei,
23 Durst, and Stycos. Motion carried.