

**Village of Lansing
Planning Board Meeting
August 25, 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, Richard Durst and Mario Tomei; Alternate Member Lisa Schleelein; Village Attorney
4 David Dubow; Code Enforcement Officer Ben Curtis; Trustee Liaison Lynn Leopold; Eric
5 Goetzmann and Jim Bold of Triax Management Group; and Larry Bieri observing for the
6 Community Party.

7
8 **Public Comment:**

9 Hickey opened the Public Comment Period. Larry Bieri introduced himself as the observer for the
10 Community Party. There being no one else who wished to speak, Tomei moved to close the Public
11 Comment Period. Seconded by Stycos. Ayes by Hickey, Stycos, Dankert, Durst and Tomei.
12 Motion carried.

13
14 **Bomax Circle Name Change**

15 Hickey directed the Board's attention to a letter from Ivar Jonson, the developer of the Lansing
16 Heights Subdivision, asking that the name of the street, Bomax Circle, be changed to Heights
17 Circle. Hickey noted that when the request first came in Bomax Drive was listed rather than Bomax
18 Circle, leading to some confusion. The request pertains only to Bomax Circle. Dubow noted that
19 Section 125-21D (4) of the Village of Lansing Code pertaining to subdivisions requires that a
20 continuation of an existing street shall bear the same name, and that the Planning Board
21 recommends a name which is subject to approval by the Trustees. Curtis responded that he had
22 checked with the 911 Center about the name change and was advised that they considered Bomax
23 Drive and Bomax Circle different streets rather one being an extension of the other, and they have
24 different numbering ranges; the Center had no objection to the name change. The Board agreed that
25 as the streets had different names and numbering systems already, Section 125-21 D (14) was not
26 really applicable. Dankert moved to recommend the name change, seconded by Durst. Hickey,
27 Durst, Dankert, Stycos and Tomei voted in favor. The motion carried.

28
29 **Bolton Estate Visit, Nina Bassuk & Others**

30 Hickey stated that he had included this agenda item to give Stycos an opportunity to update the
31 Board on her contact with Nina Bassuk from Cornell University regarding specimen trees. Stycos
32 replied that Bassuk had volunteered to help identify specimen trees, but that Stycos agreed with
33 Dubow's recommendation that a visit to the property should be postponed until after a formal
34 agreement was reached with the developers regarding clearing on the issues about which there now
35 seemed to be general agreement. Curtis has forwarded to the developers a revised draft of the
36 proposed Clearing Policy along with a note indicating that there is still concern about specimen
37 trees, but that Board wished to proceed with an agreement on the clearing issues discussed to date.
38 In the event that the basic agreement is acceptable, Stycos, Dankert and Leopold volunteered to visit
39 the site with Bassuk to better evaluate the presence of trees that should be preserved. Such a visit
40 would be subject to the concurrence of the developers. Curtis noted that once one leaves the road, it
41 is very difficult to determine where a particular tree is located relative to lot lines.

1 Hickey noted that the Board's relationship with the developers had been very positive and
2 constructive, and that whatever strategy was employed to preserve specimen trees would have to be
3 acceptable to the developers. Hickey added that Bassuk may have suggestions about how to
4 encourage land owners to preserve such trees. It would be useful to develop criteria for what is a
5 specimen tree. Leopold observed some magnificent oaks and noted that it would be good to visit the
6 site while there were still leaves on the trees.

7
8 **NYS Planning Federation**

9 Tomei reported that among other items of interest to Planning Board members, he just got word that
10 one item on the agenda would be the awarding of the John O. Cross Award for Planning Board
11 Chairman to Ned Hickey. Hickey, who narrowly averted falling out of his chair, was notably at a
12 loss for words. Tomei and Dankert had submitted the nomination and secured letters of
13 recommendation from Mayor Don Hartill, Herman Sieverding of Integrated Acquisition and
14 Development, Katherine Wolf of Trowbridge and Wolf, Tom Lavigne of Cornell Real Estate and
15 Andy Sciarabba Jr. of TG Miller Engineers, copies of which he presented to Hickey. Hickey will
16 attend the Conference and receive the award on September 14. Dankert and Tomei will attend as
17 well. Hickey thanked Tomei and Dankert for their efforts on his behalf.

18
19 **Generic PDA**

20 The next item on the agenda was continued discussion of a generic PDA and particularly the
21 Board's proposed revisions. Hickey distributed the following draft revisions, based on the Board's
22 previous discussions, to Appendix A of the Village Zoning Law, the enabling legislation for PDAs
23 which was deleted in 1993 and the reinstatement of which is now being considered:

24
25 Section 2 Objectives

26 E.(add). This transition from more intensive to less intensive use must have a physical
27 buffer strip which is at least 25 feet deep and extends the length of the commercial
28 property. The buffer strip must be wholly within the commercial property.

29
30 Section 3 General Conditions

31 D. (substitute for existing) Commercial Development. It shall be shown that the
32 combination of a commercial activity with a residential development in the area will
33 result in a more efficient use of the land and benefit both developments as well as the
34 Village.

35
36 Section 4 Preliminary Proposal

37 (2) (add) a description of the commercial activity being proposed to include building
38 size, parking spaces needed and ingress and egress of traffic, and phases of
39 development, if any.

40
41 (3) (change) may to will

42
43 Hickey reminded the Board members that the Board would recommend any changes they
44 considered appropriate to PDA enabling legislation and forward that to the Trustees to consider for
45 reactivation in the Zoning Law. If the Trustees reactivate the PDA provisions, then an applicant

1 such as Triax could develop a proposal based on those provisions and the Planning Board and
2 Trustees would use the process set forth in the provisions to review the proposal.

3
4 Curtis asked for clarification if Hickey had intended in the proposed Section 2E that the buffer be
5 entirely in the commercial portion of the property since conceivably the whole property might be
6 commercial, a portion of which being proposed for residential development. Hickey replied that
7 “portion” was what he intended. He added that he had taken the language pertaining to buffers from
8 elsewhere in the Code and added it to this section. The buffer is intended to separate residential and
9 commercial uses. Further, the developer has to demonstrate that the Village benefits from the
10 change in zoning. With regard to requiring SEQRA review, Dubow noted that the SEQRA
11 regulations themselves require the review regardless of the language in the Village Code.

12
13 Responding to a question about fees, Curtis noted that in the case of other involved approval
14 processes, the Village has established mechanisms to recover its costs for such expenses as
15 engineering and legal consultation, and such provision should also be included for PDA review.
16 Dubow suggested he could take the language from the Subdivision Regulations and insert it in the
17 PDA provisions. The application fee typically covers basic costs like legal ads, meetings, copying,
18 etc. Dubow also noted that Appendix A includes a review process with a schedule of deadlines
19 which should be looked at to ensure the time allowances are adequate and consistent with State law.
20 There will probably be other changes along the lines of cleaning up and updating language which
21 Dubow will undertake as part of his review.

22
23 Responding to a question from Stycos, Dubow noted that each PDA becomes, in essence, a separate
24 zoning district with a particular set of permitted uses, set backs, height limitations, etc. which might
25 or might not reflect the regulations for the underlying zoning district(s) from which it was derived.
26 Approving a PDA effectively rezones the land on which it will be sited, and such approval is
27 entirely within the discretion of the Boards – the Planning Board to recommend and the Board of
28 Trustees to approve. The request for PDA approval, in essence being a rezoning process, does not
29 obligate either Board to either recommend or approve or even consider the PDA.

30
31 Stycos stated that she would like to see criteria for approval such as protection of view sheds
32 included in the PDA provision. Hickey responded that issues such as view sheds are already
33 covered by SEQRA which is required for approving a PDA. There is in fact a separate form in
34 SEQRA for evaluating visual impact. Hickey added that he thought view sheds had been identified
35 as part of the Open Space Plan.

36
37 Curtis noted that Section 11 refers to Certificates of Compliance which makes no sense in the
38 context of the Village Code because in the Village Code Certificates of Compliance are specific to
39 Building Permits. Presumably, were a PDA to be approved, that action would lead eventually to the
40 issuance of Building Permits, and upon satisfactory completion of the construction authorized by
41 those permits, Certificates of Compliance would be issued. A certificate would not be issued for a
42 PDA which is in essence simply the rezoning of land anymore than would a Certificate be issued for
43 a subdivision. Hickey asked how the Village would determine that a PDA had been completed in
44 accordance with the approved plan in the absence of some sort of Certificate. Curtis responded that
45 the process might be like that used for subdivisions where the developer posts security, generally in
46 the form of a Letter of Credit, and draws that down as they complete various aspects of the

1 development. Completion in accordance with the approved plan is signified by release of the
2 security, often with some provision for additional security to be posted to warrantee work
3 completed for some period of time. Releasing funds from the Letter of Credit is generally tied to an
4 evaluation of the work by the Village Engineer and approval of the release by the Board of
5 Trustees. In the case of phased work often the Village simply approves rolling those funds forward
6 as security for satisfactorily completed work in the next phase. Dubow noted that there are other
7 requirements in the PDA provisions which should be reviewed as well such as those in Section 9
8 which requires annual reviews and authorizes revocation of approval in certain circumstances. As a
9 practical matter, this would be very difficult to apply. Curtis suggested that again borrowing
10 language from the Subdivision Regulations might provide a more workable process.

11
12 With regard to minimum lot size of 5 acres for a PDA, Curtis noted that the Triax proposal, for
13 example, included two lots, one considerably less than 5 acres and one considerably larger than 5
14 acres. Dubow suggested changing the language to indicate that in the case of more than one lot the
15 minimum would be 5 acres in aggregate.

16
17 Dubow will draft revised PDA provisions and a proposed local law incorporating the Planning
18 Board's comments regarding Appendix A and bring it back to the Planning Board for the Planning
19 Board to review and, if satisfactory, recommend to the Trustees. The Trustees would then consider
20 the proposed amendment, conduct SEQRA, hold a public hearing, etc. and approve or disapprove it.
21 If the amendment is approved developers such as Triax could then bring a proposed PDA to the
22 Planning Board for their consideration. Through provisions such as those providing for a
23 developer's conference Triax can continue to discuss their proposal informally with the Planning
24 Board while the Trustees are considering the amendment. Dubow noted also that the Board should
25 review the Comprehensive Plan to be sure there is nothing in the Plan which is inconsistent with the
26 concept of a PDA. Curtis noted that the PDA is a zoning tool rather than an outcome and that the
27 Comprehensive Plan dealt more with outcomes than methods used to achieve those outcomes. The
28 intent section of Appendix A states that a PDA shall not contravene the goals set forth in the
29 Comprehensive Plan. Dubow suggested the Planning Board members review the Comprehensive
30 Plan as part of their deliberations.

31
32 **Zoning Review – Section 145-59 & 60 A - N**

33 Hickey opened the discussion directing the Board's attention to Subsection 145-59B(1) and noting
34 that for uses permitted with a Special Permit the Board needed to refer to the General Conditions
35 applicable to all Special Permits and any Additional Conditions that might apply to a particular use.
36 Tomei asked how one knows when a Special Permit is required and whether Additional Conditions
37 apply. Dubow responded that in the regulations for each zoning district uses requiring Special
38 Permits and those with Additional Conditions are identified, and it is the Zoning Officer who then
39 refers applications for such uses to the Planning Board for consideration. Hickey added that in
40 addition to the district regulations there are also overlay districts with Special Permit requirements
41 such as those previously discussed concerning drainage, steep slopes and Unique Natural Areas.
42 Again it is the Zoning Officer that identifies a proposed project as being in one of these overlay
43 districts and refers the application to the Planning Board. Curtis added that the overlay districts are
44 shown on the Zoning Map along with the other zoning districts.

1 Moving on to 145-59D(4) Hickey explained that owners of property contiguous to a parcel where a
2 Special Permit is being considered must be notified directly by the applicant so that they have an
3 opportunity to express an opinion at the Public Hearing for that project. It is the Zoning Officer's
4 responsibility to confirm that such notification has been sent at least 5 days before the Hearing.
5 Curtis referred the Board's attention back to Section 145-59D(2) which requires that complete
6 applications for Special Permits be filed with the Village Clerk at least 12 days prior to the regular
7 monthly business meeting of the Planning Board, noting that it is commonly the case that
8 applications are processed which come in less than 12 days prior to a Planning Board meeting,
9 applications are submitted to the Code Enforcement Officer rather than the Clerk, and the Planning
10 Board meets twice a month neither of which meetings is designated as a "business" meeting. He
11 suggested that the Subsection be amended to better reflect the reality. Dubow responded that there
12 needed to be some minimum time required for submission of applications before a meeting simply
13 because other requirements such as those for public and supplementary notice require time, and he
14 would be reluctant to recommend lowering the 12 day requirement. Curtis responded that he would
15 be glad to continue doing business as usual as long as the Board understood that business as usual is
16 not what is required by the Zoning Law, but he would prefer to see the Law amended to better
17 reflect the actual practice which seems to work well.

18
19 Digressing on the issue of timing, Dubow alerted the Board to a recent court decision which calls
20 into question the way this and many other Boards around the State conduct SEQRA reviews and
21 Public Hearings. The Intermediate Appellate Court for the Third District determined that an
22 application is not deemed complete until a Board had completed the SEQRA review, and only when
23 the application is complete can the Board schedule the Public Hearing. This Board and others
24 generally conduct the Public Hearing prior to doing the SEQRA review in order to have the benefit
25 of the public comment when completing the SEQRA review. This approach works very well and
26 the Court's decision seems counterintuitive. Municipal attorneys around the State are trying to
27 figure out how best to apply the Court's decision. Technically, SEQRA does not require a Public
28 Hearing, but most agree that the process benefits significantly from public input. The answer might
29 lie in holding two public hearings – one for SEQRA and another for the approval, or possibly a
30 hybrid with a two part hearing – one part focussing on environmental issues leading to a SEQRA
31 determination, and then resuming the hearing for issues not covered by the SEQRA review, but
32 germane to the approval process for the action under consideration. Even this is a little tricky as a
33 Board is required to complete the SEQRA review prior to even scheduling the Public Hearing for
34 the action. Dubow will keep the Board informed as municipalities around the State try to make
35 sense of the ruling and adapt accordingly.

36
37 Moving on to Subsection 145-59D(8), Hickey noted that the Planning Board often has to coordinate
38 its efforts with those of the Board of Zoning Appeals. Sometimes the BZA wants the Planning
39 Board to complete its determination and make a recommendation to the BZA prior to the BZA
40 considering the variance application. In other cases the BZA may want to act independently of the
41 Planning Board. Fortunately the Boards have a good working relationship and have been able to
42 adapt as seems appropriate.

43
44 Subsection 145-59D(9) gives the Planning Board the authority to attach conditions and restrictions
45 in approving a Special Permit and this authority has been a very valuable tool in tailoring projects to
46 better meet the Village's goals and objectives.

1
2 Dubow noted that Subsection 145-59D(10) was added to give the Board the flexibility to waive
3 many of the requirements previously discussed where circumstances warranted. Completing Section
4 145-59, Hickey noted that Subsection E includes the General Conditions which he reviews for all
5 Special Permits as part of the approval process.

6
7 Moving on to Section 145-60, Hickey explained that in addition to the other requirements and the
8 General Conditions just discussed, for some Special Permit uses the Zoning Law establishes
9 Additional Conditions applicable to each of those specific uses. For example, Subsection 145-60D
10 sets forth all the special requirements that must be met in order for a home occupation to be
11 approved. These additional conditions are intended to ensure that a home occupation does not
12 adversely affect other residents in a neighborhood. Directing the Board's attention back to
13 Subsection C, Curtis reminded the Board that they had previously discussed deleting the use
14 category, *Cluster Housing*, entirely which would remove this category under Additional Conditions
15 as well. Hickey noted that Subsection K, *Telecommunications*, included special requirements jointly
16 developed by a number of municipalities in Tompkins County after cell towers were proposed in
17 some of those municipalities and they discovered their laws were inadequate to protect the public
18 interests. Similarly, Subsection L, *Adult Entertainment Businesses*, was jointly developed after a
19 strip club opened in another Tompkins County municipality.

20
21 With regard to Subsection N, *Low Traffic Food and Beverage and Technology District*, Hickey
22 explained that the Board had wrestled with the issue of how to respond to the need of employees in
23 the Business Park for a convenient source of meals and refreshments without competing with the
24 commercial districts in the Village where restaurants are an intended and permitted use. The
25 additional conditions in Subsection N are intended to limit food service in the Business Park
26 primarily to employees eating in their offices. When it came to the Board's attention in 2003 that
27 the conditions were so restrictive that they may have made it infeasible to provide food in the Park
28 at all, the Board amended the Law to relax the requirements to a point where it was more feasible to
29 provide the service. One of the reasons the Village Code works well is that when problems are
30 recognized the Board recommends changes and the Trustees have approved amendments. Review
31 of the Zoning Law is and should be an ongoing process.

32 33 **Approval of Minutes**

34 Curtis reported that the minutes were not ready for the Board's review.

35 36 **Reports**

37 *Trustees* – Tomei reported the Trustee meeting lasted only 21 minutes. Harbor Fest was quite a
38 success bringing in over 5000 people. Through the Village's deer control program several
39 property owners will be receiving tags for 20 – 30 deer to be taken by bow hunting only.

40 41 **Adjournment:**

42 Tomei moved to adjourn at 9:05 P.M. Seconded by Stycos. Ayes by Hickey, Dankert, Durst,
43 Tomei and Stycos. Motion carried.