

**Village of Lansing
Planning Board Meeting
October 12, 2009**

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

6
7 **Public Comment:**

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

12
13 **25 Cedar Lane, Addition and Deck**

14 The next item on the agenda was Special Permit #2408, John Cawley and Rachel Dunifon, to
15 construct a 320sf two story addition and a deck for their single family house at 25 Cedar Lane in the
16 Low Density Residential District, Tax Parcel Number 48.1-2-48.2. Because the property includes
17 land in the Steep Slope Conservation Combining District, Special Permit review is required pursuant
18 to Section 145-48 of the Village of Lansing Code.

19
20 Hickey directed the Board's attention to drawings of the project in the members' packets. He reported
21 that he had visited the site and noted that, like many homes in the Cedar Lane neighborhood, the
22 house in question is cut into the slope with a railroad tie retaining wall along the uphill side of the
23 driveway where the addition is proposed. He observed that the Village Engineer was not present at
24 the meeting. Curtis reminded the Board that the applicants had been granted special permit approval
25 previously for a very similar enlargement of their home and that the Engineer had visited the site at
26 that time and determined that there were no significant concerns. Curtis suggested that because the
27 current proposal is very similar to the previous one, it would be safe to assume that there are no
28 significant concerns with regard to this project as well. Hickey questioned the stability of the
29 retaining wall in relation to the proposed addition. The applicant, Rachel Dunifon, responded that the
30 retaining wall is only 4 ties high and that the wall of the addition would be in direct contact with the
31 retaining wall providing additional support. The floor of the addition is a slab on grade with frost
32 walls.

33
34 Curtis confirmed that he had received proof of mailing of notice to contiguous property owners.
35 Hickey opened the public hearing. There being no one who wished to speak, Dankert moved to close
36 the public hearing. Seconded by Tomei. Ayes by Hickey, Stycos, Dankert, Durst and Tomei. Motion
37 carried. Dubow explained that the action is exempt under SEQRA, but the Board is obligated to
38 review both the General Conditions for all Special Permits and the Additional Conditions for steep
39 slopes which require environmental review. Hickey added that he would like Cross to evaluate the
40 potential impact particularly with regard to the retaining wall. Other Board members agreed. Hickey
41 then reviewed Section 145-59E, *General Conditions required for all Special Permits*. Dankert moved
42 that the proposed two story addition and deck met those conditions, seconded by Stycos, all in favor.
43 Hickey then reviewed the Additional Conditions for steep slopes. Durst moved that the applicant had

1 met the conditions, seconded by Stycos, all in favor. Discussion ensued regarding conditions that
2 might be imposed with approval of the Special Permit after which Durst moved the following
3 resolution, seconded by Tomei:
4

5 VILLAGE OF LANSING PLANNING BOARD RESOLUTION FOR SPECIAL PERMIT
6 APPROVAL ADOPTED ON OCTOBER 12, 2009
7

8 **WHEREAS:**
9

- 10 A. This matter involves consideration of the following proposed action: Special Permit
11 #2408, John Cawley and Rachel Dunifon, to construct a 320sf two story addition and a
12 deck for their single family house at 25 Cedar Lane in the Low Density Residential
13 District, Tax Parcel Number 48.1-2-48.2. Because the property includes land in the Steep
14 Slope Conservation Combining District, Special Permit review is required pursuant to
15 Section 145-48 of the Village of Lansing Code.
16
- 17 B. The Village of Lansing Planning Board, in accordance with Article 8 of the New York
18 State Environmental Conservation Law - the State Environmental Quality Review Act
19 (“SEQR”), and 6 NYCRR Section 617.5, hereby determines that the approval of the
20 proposed special permit is a Type II action, and thus may be processed without further
21 regard to SEQR; and
22
- 23 C. The Village Code Enforcement/Zoning Officer has determined that the proposed action is
24 not large-scale and therefore is not subject to a full and extensive environmental review
25 under the Village of Lansing Zoning Law; and
26
- 27 D. On October 12, 2009, the Village of Lansing Planning Board held a public hearing
28 regarding this proposed action, and thereafter thoroughly reviewed and analyzed (i) the
29 materials and information presented by and on behalf of the applicant in support of this
30 proposed action, including information and materials related to the environmental issues,
31 if any, which the Board deemed necessary or appropriate for its review, (ii) all other
32 information and materials rightfully before the Board, and (iii) all issues raised during the
33 public hearing and/or otherwise raised in the course of the Board’s deliberations; and
34
- 35 E. On October 12, 2009, in accordance with Section 725-b of the Village Law of the State of
36 New York and Sections 145-59, 145-60, 145-60.1 and 145-61 of the Village of Lansing
37 Code, the Village of Lansing Planning Board, in the course of its further deliberations,
38 reviewed and took into consideration (i) the general conditions required for all special
39 permits (Village of Lansing Code Section 145-59E), (ii) any applicable conditions
40 required for certain special permit uses (Village of Lansing Code Section 145-60), (iii)
41 any applicable conditions required for uses within a Combining District (Village of
42 Lansing Code Section 145-61), and (iv) any environmental issues deemed necessary
43 and/or appropriate;
44

45 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**
46

- 1 1. The Village of Lansing Planning Board hereby (i) determines that the environmental
2 information and materials submitted by the applicant and the details thereof are
3 reasonably related to the scope of the proposed project; (ii) waives the necessity for any
4 additional environmental information otherwise required; and (iii) finds that the proposed
5 project will not have a significant adverse impact on the environment; and
6
- 7 2. The Village of Lansing Planning Board hereby finds (subject to the conditions and
8 requirements, if any, set forth below) that the proposed action meets (i) all general
9 conditions required for all special permits (Village of Lansing Code Section 145-59E), (ii)
10 any applicable conditions required for certain special permit uses (Village of Lansing
11 Code Section 145-60), and (iii) any applicable conditions required for uses within a
12 Combining District (Village of Lansing Code Section 145-61); and
13
- 14 3. It is hereby determined by the Village of Lansing Planning Board that Special Permit No.
15 2408 is **GRANTED AND APPROVED**, subject to the following conditions and
16 requirements:

- 17
18 1. **Confirmation by the Village Engineer that the proposed construction will not**
19 **adversely impact the environment due to the steep slopes on the property.**
20

21 The vote on the foregoing motion was as follows:

22
23 **AYES: Ned Hickey, Mario Tomei, Phil Dankert, Maria Stycos and Richard Durst**

24
25 **NAYS: none**
26

27 The motion was declared to be carried.
28

29 **Bolton Estate Subdivision Conservation Easement Agreement**

30 Dubow explained that the Board had reviewed the proposed Conservation Easement Agreement
31 earlier along with the proposed Clearing Policy, but had focussed on the Clearing Policy as that
32 appeared to be more urgent. Now that the Clearing Policy issues have been resolved the Board needs
33 to consider the Conservation Easement Agreement. The proposed Agreement was drawn up by the
34 developer for consideration by the Planning Board. In the course of the earlier discussion, it was
35 suggested that the Finger Lakes Land Trust might have sample easements and practical advice as they
36 use conservation easements on a regular basis.
37

38 Hickey noted that he had flagged a couple of issues in the proposed Agreement. Reading from his
39 notes of the earlier discussion Curtis stated that under Section C of the “Whereas” statement, Hickey
40 had suggested drainage ways be included in the list of features in the development. This addition
41 should be reflected in Subsection F as well and in Section 2, *Purpose*, of the document. Hickey added
42 that he had flagged Section 4, *Restriction of Development Rights*, as well because it provided that
43 “temporary structures or improvements that may be placed and removed without endangering the
44 cliffs”. He suggested that such “temporary structures and improvements” should be subject to
45 Planning Board approval, especially as no definition for what is meant by the terms is included.
46 Dubow stated that he had the same concern, but if Planning Board approval is required for

1 “temporary structures and improvements”, then there must be some stated criteria upon which the
2 Board bases its decisions just as was the case with the tourist directional sign provisions recently
3 adopted. Hickey responded that each lot has a substantial clearing area where such improvements can
4 be located and if an owner wants instead to locate them outside those limits, and particularly in the
5 Conservation Easement area, then requiring Planning Board approval does not seem unreasonable to
6 him. Dubow noted that it has now been established that the clearing limits are based on stormwater
7 management and it therefore becomes a little more complicated to apply them to unrelated issues.
8 That being said, the intention for the Conservation Easement was to preserve this sensitive area
9 essentially undisturbed. Leopold stated that she could imagine a temporary structure carefully
10 designed to have little or no impact, but she is concerned that such an unobjectionable improvement
11 might open the door to others that would be a problem. Responding to Stycos, Hickey stated that
12 simply prohibiting “temporary structures and improvements” all together would be a departure from
13 the constructive discussions the Board has maintained throughout the approval process to the benefit
14 of all parties concerned. Dubow reminded the Board that any restrictions it imposed carried with
15 them a burden of enforcement and it is almost inevitable that property owners will undertake minor
16 improvements over time in normal enjoyment of their property and detecting and responding to such
17 actions will be difficult. Dubow added that it might be useful to discuss with the developer the
18 intention of this provision so that “temporary structures and improvements” might be better defined
19 and thereby limited. In addition, consulting with the Finger Lakes Land Trust about how they handle
20 this issue and what they put in their conservation easements might be worthwhile. With regard to
21 enforcement, Stycos noted that the Stewardship Program is intended to provide monitoring and
22 establish a record of the condition of a Village property or easement, and as long as it is stated in the
23 easement that no “temporary structures and improvements” are permitted, then the steward or the
24 Village would have some basis for requiring one to be removed. Dubow again suggested that in the
25 interests of providing the developers with a fair response, the Board should review what the Land
26 Trust does and see if what they are proposing is in keeping with general standards.

27
28 Hickey asked Stycos if she had scheduled a visit to the Subdivision with Nina Bassuk to assess
29 specimen trees. Stycos replied that if the Clearing Policy was finalized and the owner is agreeable,
30 she will schedule such a visit. Dubow replied that the Clearing Policy had not been signed per se, all
31 outstanding issues have been resolved and agreement reached. Curtis will contact Andy Sciarraba, the
32 Project Engineer, to see if the owner will grant permission for such a visit. Hickey suggested that
33 Stycos and whoever accompanied her identify the trees they considered specimen trees and list the
34 criteria upon which they made the determination.

35
36 **Bolton Estate Subdivision – Steep Slopes**

37 Curtis explained that some issues regarding steep slopes in the Bolton Estate Subdivision had come
38 up about which he wanted the Board to be aware. He directed the Board’s attention to a map of the
39 Subdivision in their packets on which steep slopes as determined by the County are depicted in
40 several colors. He pointed out that Lots 2, 7, 14 and 11 each have small areas with steep slopes. He
41 then directed the Board’s attention to a copy of Note 1 of the Conditions of Approval for the Bolton
42 Estate Subdivision on the Subdivision Plat which states that Special Permits will be required for the
43 issuance of a Building Permit for construction on “certain lots (including, but not limited Lots 4, 5, 6,
44 9, 10, 16 and 17) with respect to which significant portions thereof are situated in the Flood Hazard
45 Combining District, Conservation Combining District, Steep Slope Conservation Combining District
46 and/or Unique Natural Area Conservation Combining District.” In recent conversations, the
47 developers indicated to Curtis that they understood this to mean that no Special Permit is required for

1 Lots 2, 7, 14 and 11 because the small percentage of the respective lot areas where steep slopes exist
2 are not “significant portions thereof”. Curtis directed the Board’s attention to Section 145-48 of the
3 Village Code which states that the Steep Slope Conservation Combining District includes all lots that
4 contain slopes greater than 15% and makes no reference to “significant portions thereof”. Based on
5 this he has informed the developers and the new owners of Lots 14 and 7 that a Special Permit is
6 required for the issuance of any building permits for construction on those lots. Curtis noted that the
7 steep slopes on Lots 2 and 14 appeared to be outside the clearing limits, but again there is no
8 provision in Section 145-48 to exempt them from Special Permit review simply because the steep
9 slopes would not be disturbed. Dubow added that the language on the Plat is intended to be specific
10 to the lots listed of which significant portions are clearly in one or more of the Conservation Districts,
11 but the language is equally clear that all of the lots are subject to the Village’s laws including those
12 governing development on steep slopes.

13
14 Dubow reminded the Board that the issue had come up in earlier discussions and a suggestion had
15 been made that in cases where the extent of steep slopes was minor and the proposed development
16 was on a portion of the lot other than that where the steep slopes are located, that a lower level of
17 scrutiny be required such as a determination by the Village Engineer whether there was potential for
18 an adverse impact. Only the cases where there was such a potential for adverse impact would be
19 referred to the Planning Board for Special Permit review. At that time the Board decided that though
20 the process involved some inconvenience and delay for applicants, it was warranted by the need to
21 protect these sensitive areas. Curtis added that the primary concerns on steep slopes are erosion
22 control and to a lesser degree the structural stability of the buildings. Hickey suggested the Board
23 reconsider the option of using the Village Engineer to screen applications and refer to the Planning
24 Board only those where there is some potential for adverse impacts. Curtis noted that while he
25 supported such a change, it can not be accomplished quickly enough to help with the pending
26 applications in the Bolton Estate Subdivision. He suggested, therefore, that the developers be
27 permitted to submit generic applications for the lots in question. The Engineer could then assess the
28 steep slopes on the four lots and the Planning Board could approve Special Permits for single family
29 residences within some parameters built within some prescribed area on the lot. The Planning Board
30 did this with the Beck Subdivision in the early 1990s. This prior approval will allow the Bolton
31 Estate developers to market these lots with the Special Permit approvals already granted for at least
32 some typical level of one or two family home. Curtis noted that two of the lots have already been sold
33 and will come in separately, but the developers could bring in the other two if the Board will consider
34 the generic applications. Responding to Hickey, Dubow agreed to suggest the alternative to the
35 developers with whom he expects to be in contact. Curtis will also notify the Project Engineer, Andy
36 Sciarabba.

37
38 **In-ground Swimming Pools**

39 Curtis reported that he had received an application to construct a swimming pool which he
40 determined would require an area variance from the BZA. In the course of putting together a package
41 with Village Code/Zoning Law citations for the BZA he realized that there are some confusing, if not
42 inconsistent provisions. In-ground pools are included in the definition of a building; buildings over
43 200sf are principal buildings and those less than 200sf are accessory buildings; a one-unit residential
44 building is one containing one residential dwelling unit; minimum yard dimensions vary depending
45 on whether a building is a one or two unit building, accessory building or other principal or accessory
46 use. On the other hand Section 145-15 of the Village of Lansing Code states that “terraces, steps,
47 porches, patios and similar features of a building which are unroofed and which rise less than three

1 feet above the finished grade are considered not part of the building. He noted that the pool in
2 question, like most in-ground pools, will be at grade. If considered a principal building it would need
3 to be setback 40' from the rear property line and if considered a one-unit residential building 20' from
4 the side property line, but if considered an "other principal" building 25'.

5
6 Curtis suggested that the Board might want to read through these sections, consider exactly what
7 outcome the Board was trying to effect, and then rewrite the sections to eliminate the ambiguity and
8 inconsistencies. It might be easier to address swimming pools as a separate use rather than equating
9 them with buildings. Curtis noted further that in this case a fence is being proposed along the
10 property line where there would be deficient setback and the fence will, for the most part, screen the
11 pool from view from neighboring properties. Dubow added that this issue had been considered as
12 recently as 2000 when some of these sections were amended. He could not determine the exact
13 genesis of the discussions, but the minutes reflect at least some concern about pools as a gathering
14 place and possibly a source of noise or disturbance. It is not clear how this would differ from other
15 recreational use of a yard. In the course of the discussion leading up to the amendment it was
16 proposed that the setback might be reduced with the permission of the offended neighbor as is
17 currently permitted for movable buildings, but that provision was not included in the final
18 amendment. The discussions took place between 1997 and 2000 and the current law reflects the then
19 consensus of the Board pursuant to those discussions.
20

21 Hickey suggested that a swimming pool could be a defined type of structure other than a building and
22 be added specifically to the list 145-15. That would eliminate the requirement for any setback except
23 for above-ground pools more than 3' above grade. Curtis suggested that if considered a separate use,
24 swimming pools could be ascribed whatever setback the Planning Board determined to be
25 appropriate without tying it to that of a principal or accessory building, size or height above grade.
26 Dubow suggested the Board might want to look at Zoning Laws from other municipalities to learn
27 what other communities are doing to regulate swimming pools. Hickey stated that he supported
28 simplifying the Law. Curtis noted that safety issues are addressed by the Building Code provisions
29 which are statewide and the Zoning Law addresses issues like impact on neighboring properties
30 which is a local issue. Hickey suggested that the Board give the matter some thought and he and
31 Tomei and Curtis will meet and identify some options for the Board to consider.
32

33 **Approval of Minutes**

34 Dankert moved the minutes of August 10 as corrected, seconded by Stycos; Dankert, Stycos, Hickey
35 and Tomei in favor with Durst abstaining because he was not present at that meeting. Tomei moved
36 the minutes of August 25 as corrected, seconded by Stycos, all in favor.
37

38 **Reports**

39 *Trustees* – Stycos reported that the name change from Bomax Circle to Jon Stone Circle had been
40 approved as had the proposed Homewood Suites way-finding sign. Cornell has applied for a bow
41 hunting permit for their property adjacent to Parkview Health Care Campus. The water tank behind
42 the Village Office will be taken down sooner than expected, possibly in a few months. She also
43 reported that the mirror at the intersection of Twin Glens Road and Cayuga Heights Road was
44 gone.
45

46 **Other Business as Time Permits**

1 Hickey reported that Curtis had received a phone call from a woman who was concerned about traffic
2 problems she believed will result from the changes in the Triphammer Mall entrance and Substation
3 Alley. She was particularly concerned about the intersection of Substation Alley and Sheraton Drive
4 and that of Sheraton Drive and North Triphammer Road. She pointed out that drivers planning to turn
5 left off North Triphammer onto Sheraton often have to merge into the left lane between the Mall
6 entrance and Sheraton Drive which is a short distance, and she has experienced and seen a number of
7 near misses. Dubow added that the Trustees were concerned about the same issue relative to the new
8 Homewood Suites directional sign which will give drivers on North Triphammer short notice that
9 they have to get into the left lane to turn on Sheraton after clearing the intersection with the Mall
10 entrance. Curtis suggested that the Village might consider changing the left south bound lane of
11 North Triphammer at the Mall entrance to a left-turn-only lane. Curtis noted further that the Mall
12 entrance will soon be closed to large trucks sending them instead to Sheraton Drive and Substation
13 Alley which may exacerbate the problem of left turns from North Triphammer onto Sheraton. The
14 caller went on to list a number of problematic traffic points in the Village about which she had made
15 notes. He encouraged her to attend a Village meeting to share her observations. Hickey suggested
16 Curtis share this information with Superintendent of Public Works John Courtney. Dubow added that
17 it might be worthwhile to check with Fisher Associates who did the traffic studies for the North
18 Triphammer Road reconstruction as well as for the Kinney Drugs project.

19
20 Hickey also reported that he, Tomei, Curtis and Dubow had met to discuss the PDA and the
21 procedure by which a proposed PDA would be received and processed. Dubow stated that the
22 language and the procedures for processing a PDA should underscore that it is essentially a zoning
23 change and as such purely at the discretion of the Trustees whether to even consider a PDA proposal.
24 As such, it should not be considered an application requiring some action or response, but rather a
25 proposal or suggestion which the Trustees might or might not pursue. It was suggested that a
26 proposed PDA should go first to the Trustees and, if interested, the Trustees could charge the
27 Planning Board with reviewing the proposal and provide parameters if appropriate. Dubow stated that
28 he is working on the revisions to bring back to the Planning Board and when and if the Planning
29 Board is comfortable it will be referred to the Trustees where it will require among other things
30 County review, SEQRA and a Public Hearing, all of which will take time. Hickey has informed Triax
31 that the process will take time.

32
33 Hickey also reported that he, Tomei and Curtis had met with Tom Lavigne and Melissa Bellisario
34 from Cornell Real Estate. They are still interested in rezoning the Medium Density Residential parcel
35 adjacent to Parkview Health Care Campus to Business and Technology as part of Cornell's long term
36 planning for the Business and Technology Park. They are not able to actively pursue the rezoning at
37 this time due to the fiscal crisis affecting the University. They may also be interested in offering
38 Thornwood Drive to the Village.

39
40 **Adjournment:**

41 Stycos moved to adjourn at 9:20 P.M. Seconded by Durst. Ayes by Hickey, Dankert, Durst, Tomei
42 and Stycos. Motion carried.