

**Village of Lansing
Planning Board Meeting
July 11, 2011**

1 The meeting of the Village of Lansing Planning Board was called to order at 7:32 P.M. by Chairman
2 Mario Tomei. Present at the meeting were Planning Board Members Phil Dankert, Maria Stycos and Lisa
3 Schleelein; Alternate Board Member Jonathan Kanter; Trustee Lynn Leopold; Code Enforcement Officer
4 Marty Moseley; Village Attorney David Dubow; Village Engineer Brent Cross; Residents Lowell Garner,
5 Marjorie Pryse, Kenneth and Barbara Horowitz, and Zhiqiang Cheng; Andrew Rosen from the Solomon
6 Organization; and Kathryn Wolf from Trowbridge and Wolf.

7 Tomei appointed Kanter as an acting member for the meeting due to the absence of Planning Board
8 member Richard Durst.

9 **Public Comment Period**

10 Tomei opened the public comment period; with no one wishing to speak, Stycos moved to close
11 the public comment period. Seconded by Schleelein; Ayes: Tomei, Dankert, Stycos, Schleelein and
12 Kanter.
13

14 **Public Hearing to Consider:**

15 Special Permit #2576, Murray Estates, Inc, to clear an area on vacant land located on the corner of
16 Triphammer Road and Oakcrest Road, in both the Commercial Low Traffic District and Low Density
17 Residential, Tax Parcel Numbers 43.1-1-47 and 43.1-1-38.1 Because the proposed use and activity
18 will occur within 200' of the centerline of a stream included in the Drainageway Conservation
19 Combining District special permit review is required pursuant to Section 145-48 of the Village of
20 Lansing Code.

21 Dubow indicated that Horowitz is a client of Dubow's law firm, but he and his office have not
22 participated in this particular matter. Horowitz explained that he is the owner of approximately 400
23 acres of land in the Village of Lansing made up of contiguous tax parcels. Horowitz explained that at
24 this point in time he has no plans to develop the property, and would like to cut the low lying
25 vegetation in a particular area identified in this special permit matter in order to see what that area
26 looks like. Horowitz noted that he did offer to take Planning Board Members back into the property
27 so that they could see the overgrown condition of area in question. Horowitz explained that he would
28 like to clear the vegetation on approximately four to nine acres located on two adjacent tax parcels
29 which total approximately ten acres. Horowitz indicated that he would not be changing the
30 topography of the land and any work will have minimal earth moving and protection of significant
31 trees. Horowitz added that he was not interested in removing any trees, but would stipulate that trees
32 no larger than 6 inches in diameter would not be removed. Horowitz noted that no soil would be
33 exposed or removed from the property. Horowitz noted that it has been extremely difficult for
34 anyone to easily walk through the area due to the dense vegetation.

35 Horowitz noted that he would like to have a private driveway that would intersect with Oakcrest
36 Road, and would include having a chain across the driveway to minimize trespassing. In the process
37 of building the private driveway Horowitz expressed interest in installing a culvert in the stream bed.
38 Wolf noted that the DEC (Department of Environmental Conservation) does not have any delineated
39 wetlands in the area. Schleelein noted that there appeared to be wetland vegetation on the property.

40 Wolf indicated that there is none on the property in question but there could be some on other parcels
41 of the Murray Estates. Cross noted that there is currently some wetland vegetation in the drainage
42 way that could be in the Village right of way. Kanter expressed concern for wetland vegetation that
43 appeared to be on the parcel in question. Leopold agreed that she too saw some wetland vegetation on
44 the parcels in question. Wolf explained that there would be no way to delineate a wetland due to the
45 density of the vegetation on the parcels. Wolf added that they could work around that particular area
46 until further investigation has been performed. Cross noted that based on the description, the wetland
47 would not be disturbed or destroyed and would only become exposed at a later point in time. Tomei
48 asked if there would be an annual maintenance performed similar to what is being asked for with this
49 special permit. Horowitz noted that it would probably not need to be done on a yearly schedule.

50 Kanter asked about the location of the driveway, and noted that a good location would be about 270 feet
51 down from the parking area on the corner. Kanter added a concern for the steep banks in the stream bed.

52

53 Cross supplied the Planning Board with his engineer's report which reads:

54

55 **VILLAGE OF LANSING**
56 **ENGINEER'S REPORT**

57

58 DATE: July 11, 2011

59

60 TO: Planning Board

61

62 FROM: Brent Cross, Village Engineer

63

64 RE: Murray Estates Clearing Project

65

66 In consideration of a Special Permit for the above referenced project, I have reviewed the
67 information provided by the applicant. I have the following observations and comments:

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- 69 1. The area map provided identifies the "area subject to current proposal" with a heavy
70 dashed line. It appears that the line delineates the entire parcel(s) of land, excluding the
71 small triangle of land on the northwest corner of Oakcrest and N. Triphammer Roads. I
72 am assuming that this is the entire 10 acres of land referred to in the narrative.
- 73
74 2. It also looks like the southern boundary of the parcel(s) runs along the stream, which
75 also runs along the north edge of Oakcrest Road. Without further research, I do not
76 know if the stream course is on the private property or within the Village's ROW for
77 Oakcrest Road. Is the applicant planning to clear within 200' of the stream centerline? IF
78 SO, is there any special stabilization needed in this area?
- 79
80 3. It is unclear to me if the proposed work includes removal of stumps and/or other
81 vegetation that would be considered soil disturbance. IF SO, then it is likely that the work
82 would be subject to the Village's Stormwater Management Law. Either way, it is likely
83 that removal of upto 9 acres of overgrowth will have some impact on the amount of
84 runoff from this property. This should be documented as the "baseline" condition for
85 calculation of runoff for future development that WILL require stormwater management
86 provisions.

87

- 88 4. Although the applicant has requested approval for a range of removal from 4 to 9 acres
89 of land, no information has been provided to indicate the preferred area(s) to be cleared.
90
- 91 5. It is not clear where the private road will be installed. This information is needed to
92 determine if the installation of the culvert is going to be within the Village's ROW (subject
93 to Village specifications) and to evaluate the distance of the "curb cut" to the intersection
94 at N. Triphammer Road. Otherwise, the private road is merely a driveway with no
95 specific design requirements.
96
- 97 6. It seems that this proposal requires much more information (some of which is highlighted
98 above) than a recent homeowner's proposal due to its relatively significant size and
99 potential impact, as well as it is likely that this is being done for the commercial value of
100 the land as opposed to personal enjoyment of a private individual.
101

102 Cross noted that there will be less impact than he anticipated due to no earth moving taking place.
103 Wolf added that all the root masses would be kept in their same place, which should not result in soil
104 erosion. Cross asked if the application would be for the entire project or just within the delineated stream
105 area. There was a brief discussion on the proposed project possibly altering the storm water runoff. Cross
106 asked if the whole site would be cleared. Wolf noted that could be a possibility, but they would only be
107 cutting the underbrush and keeping the trees. Cross noted that if the culvert is located in the Village right
108 of way, the Village does have specifications on the size that is needed. Cross noted that the culvert would
109 not be sized by the Village if it was located on private property. Kanter asked if the stream was regulated
110 by the DEC. Wolf noted that she had been trying to contact the DEC, but has had no luck. Wolf asked
111 for the Planning Board to make the culvert a condition of the Special Permit, and allow Murray Estates to
112 remove the underbrush.

113 Cross indicated that it would not be uncommon to include as a condition to any special permit
114 approval such that certain matters would be subject to the Village Engineers approval. Kanter indicated
115 that he would be more comfortable with Horowitz coming back to the Planning Board for an approval on
116 the culvert location and size. Horowitz asked why the Village Engineer could not make this determination
117 outside of a formal meeting. Kanter pointed out that the Village Engineer would make a recommendation
118 to the Planning Board, and then the Planning Board would then make the determination based on the
119 recommendation. Tomei noted that the Planning Board will need to see a drawing indicating the location
120 and size of the culvert and the driveway/curb cut before they can approve that part of the Special Permit.
121 Garner noted that even though the root stock will remain, he believed that the evaporative surface will be
122 greatly reduced for the area that will be removed. Garner added that if the parcel were to ever progress to
123 an asphalt surface, people might forget that the parcel was originally an untamed area for vegetation.
124 Wolf pointed out that the trees, with their canopies, will remain and just the underbrush will be removed.
125 Wolf added that rain will be broken up by the tree canopies and the rough terrain. Cross explained that a
126 majority of the project could be done without a permit, until the project was to enter the 200 feet within
127 the thread of the stream area as described in the Village Zoning Law. Moseley agreed. Cheng indicated
128 that he was concerned about the stream, and added that if any work was to be done within the stream, that
129 it hopefully, would not negatively impact the downstream individuals. Cheng indicated that the stream
130 has become wider over the years and he has lost property to the stream. Corss explained that if the stream
131 is impacting a person's property they have the obligation to protect their property, but if, in fact, it is the
132 Village property the Village would need to maintain the stream. There were no further comments from
133 the public. Dankert moved to close the public hearing. Seconded by Schleelein; Ayes: Tomei,
134 Dankert, Stycos, Schleelein, and Kanter.

135 Tomei read the special permit general conditions, which read:

- 136 *(1) It will not be detrimental to or endanger the public health, safety or general*
137 *welfare.*
138 *(2) It will not be injurious to the use and enjoyment of other property in the*
139 *vicinity or neighborhood.*
140 *(3) It will not impede the orderly development of the vicinity or neighborhood and*
141 *is appropriate in appearance and in harmony with the existing or intended*
142 *character of the vicinity or neighborhood.*
143 *(4) The street system and off-street parking facilities can handle the expected*
144 *traffic in a safe and efficient manner.*
145 *(5) Natural surface water drainageways are not adversely affected.*
146 *(6) Water and sewerage or waste disposal facilities are adequate.*
147 *(7) The general environmental quality of the proposal, in terms of site planning,*
148 *architectural design and landscaping, is compatible with the character of the*
149 *neighborhood.*
150 *(8) Lot area, access, parking and loading facilities are sufficient for the proposed*
151 *use.*
152 *(9) The requested use or facility conforms in all other respects to the applicable*
153 *regulations of the district in which it is located.*
154 *(10) The applicant has shown that steps will be taken where necessary to meet all*
155 *performance standards and all other applicable general regulations.*

156 Kanter moved that all items in the general conditions for special permit have been satisfied.
157 Seconded by Stycos; Ayes: Tomei, Dankert, Stycos, Schleelein and Kanter. Further discussion was had as
158 to the need for any possible additional conditions of approval. The following proposed special permit
159 approval resolution was moved by Dankert and seconded by Kanter.
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161 **VILLAGE OF LANSING PLANNING BOARD RESOLUTION FOR SPECIAL PERMIT**
162 **APPROVAL ADOPTED ON JULY 11, 2011**

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165 Motion made by: Phil Dankert

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167 Motion seconded by: Jon Kanter

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169 **WHEREAS:**

- 170
171
172 A. This matter involves consideration of the following proposed action: Special Permit
173 #2576, Murray Estates, Inc, to clear an area on vacant land located on the corner of
174 Triphammer Road and Oakcrest Road, in both the Commercial Low Traffic District
175 and Low Density Residential District, Tax Parcel Numbers 43.1-1-47 and 43.1-1-
176 38.1. Because the proposed use and activity will occur within 200' of the centerline of
177 a stream included in the Drainageway Conservation Combining District, special

178 permit review is required pursuant to Section 145-48 of the Village of Lansing Code;
179 and
180

181 B. The Village of Lansing Planning Board, in accordance with Article 8 of the New
182 York State Environmental Conservation Law - the State Environmental Quality
183 Review Act (“SEQR”), and 6 NYCRR Section 617.5, hereby determines that the
184 approval of the proposed special permit is a Type II action, and thus may be
185 processed without further regard to SEQR; and
186

187 C. The Village Code Enforcement/Zoning Officer has determined that the proposed
188 action is not large-scale and therefore is not subject to a full and extensive
189 environmental review under the Village of Lansing Zoning Law; and
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191 D. On July 11, 2011, the Village of Lansing Planning Board held a public hearing
192 regarding this proposed action, and thereafter thoroughly reviewed and analyzed (i)
193 the materials and information presented by and on behalf of the applicant in support
194 of this proposed action, including information and materials related to the
195 environmental issues, if any, which the Board deemed necessary or appropriate for its
196 review, (ii) all other information and materials rightfully before the Board, and (iii)
197 all issues raised during the public hearing and/or otherwise raised in the course of the
198 Board’s deliberations; and
199

200 E. On July 11, 2011, in accordance with Section 725-b of the Village Law of the State of
201 New York and Sections 145-59, 145-60, 145-60.1 and 145-61 of the Village of
202 Lansing Code, the Village of Lansing Planning Board, in the course of its further
203 deliberations, reviewed and took into consideration (i) the general conditions required
204 for all special permits (Village of Lansing Code Section 145-59E), (ii) any applicable
205 conditions required for certain special permit uses (Village of Lansing Code Section
206 145-60), (iii) any applicable conditions required for uses within a Combining District
207 (Village of Lansing Code Section 145-61), and (iv) any environmental issues deemed
208 necessary and/or appropriate;
209

210 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**
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212

213 1. The Village of Lansing Planning Board hereby (i) determines that the environmental
214 information and materials submitted by the applicant and the details thereof are
215 reasonably related to the scope of the proposed project; (ii) waives the necessity for
216 any additional environmental information otherwise required; and (iii) finds that the
217 proposed project will not have a significant adverse impact on the environment; and
218

219 2. The Village of Lansing Planning Board hereby finds (subject to the conditions and
220 requirements, if any, set forth below) that the proposed action meets (i) all general
221 conditions required for all special permits (Village of Lansing Code Section 145-
222 59E), (ii) any applicable conditions required for certain special permit uses (Village

223 of Lansing Code Section 145-60), and (iii) any applicable conditions required for uses
224 within a Combining District (Village of Lansing Code Section 145-61); and
225

226 3. It is hereby determined by the Village of Lansing Planning Board that Special Permit
227 No. 2576 is **GRANTED AND APPROVED**, subject to the following conditions and
228 requirements:
229

- 230 1. If the culvert is proposed to be installed in the stream bed on private property,
231 a survey map, upon which the approximate location and size of the proposed
232 culvert and driveway curb cut onto Oakcrest Road is noted, will be required to
233 be submitted to the Planning Board for approval prior to any
234 culvert/driveway/curb cut work commencing, which map notations shall also
235 include dimensions and construction information for said driveway. Clearing
236 and related work can commence immediately.
- 237 2. If there appears to be any visible wetlands, extra care shall be taken to
238 preserve both the wetland and the vegetation.
- 239 3. Disturbance shall be kept to a minimum near the steepest area of the stream
240 bed.
241

242 The vote on the foregoing motion was as follows:
243

244 AYES: Mario Tomei, Phil Dankert, Lisa Schleelein, Maria Stycos and Jon Kanter
245

246 NAYS: None
247
248

249 The motion was declared to be carried.
250

251 **Temporary Commercial Activities (TCA) Continued Discussion**

252 Tomei explained that Tops Markets had sent a letter indicating that they hold some special events
253 throughout the year that usually benefit the community in some way. Tomei added that the residential
254 zones were eliminated in the special events category. Dubow indicated that he and Moseley determined
255 that a “residential activity” as included in the Village Zoning Law would incorporate private parties,
256 weddings, and other similar residential events. Dubow added that the wording was found in section 145-
257 82 under the uses of one-unit residential, two-unit residential and multi-unit residential. Dubow noted that
258 the language in the definitions above uses needed to be slightly cleaned up. Dubow further explained that,
259 in certain districts, a Temporary Non-Commercial Activity use will be added to allow for events like an
260 employee picnic or a private party. Dubow suggested that this use category be added to the Business and
261 Technology District, the Commercial Low Traffic District, the Research District, and the Human Health
262 Services District. Cross asked if it the TCA was the responsibility of the merchant or the owner of the
263 property. Moseley indicated that it was ultimately at the discretion of the property owner, since they need
264 to give permission to the merchant to be able to operate a TCA on their property.

265 Dubow suggested that the Holiday Sales section be allowed to have the full 42 days instead of
266 having two intervals of 21 days, since some sales, like pumpkins, would probably be on sale for a
267 continuous period of more than the 21 days allowed. Schleelein asked about the potential of garbage from
268 any of the TCA’s. Moseley indicated that it would be the property owner’s obligation to maintain their lot
269 in a clean manner. Moseley added that this is outlined in the Village Code under the performance

270 guarantee section. Dubow asked if in footnote #5, which reads: “No more than one event or activity per
271 tax parcel at any one point in time,” would two different TCA categories be allowed to operate on one tax
272 parcel at one point in time. The Planning Board agreed to the intent of what Dubow had asked. The
273 Planning Board agreed with all of Dubow’s suggestions. Dubow added that the TCA uses should not
274 result in violations of other applicable district regulations, like parking or lighting. Moseley indicated that
275 he had already incorporated language into section 145-58, as altered, to deal with Dubow’s suggestion.
276 Schleelein asked if a general statement at the beginning of section 145-58 was needed. Moseley explained
277 that while looking at other municipality’s code for TCA’s, usually the general statement was associated
278 with a TCA chapter.

279

280 **Approval of Minutes**

281 Schleelein moved to accept the May 31st minutes as amended. Seconded by Stycos. Ayes:
282 Tomei, Dankert, Stycos, Schleelein and Kanter.

283 **Other Business**

284 Moseley explained that he had been having discussions with individuals that would like to
285 propose a zoning amendment to the Low Density Residential District which would allow some sort of a
286 festival to take place. Kanter noted that since they do not have permission from any land owner at this
287 point in time, the Planning Board cannot comment on this matter.

288 **Adjournment**

289 Kanter moved to adjourn at 9:35.PM. Seconded by Stycos. Ayes: Tomei, Dankert, Stycos,
290 Schleelein, and Kanter.