

Village of Lansing
Planning Board Meeting
Minutes of Monday
August 10, 2020

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The meeting of the Village of Lansing Planning Board via Zoom was called to order at 7:03 PM by Chair, Lisa Schleelein.

Present at the meeting:

Planning Board Members: Mike Baker, Carolyn Greenwald, James McCauley, Monica Moll, Lisa Schleelein

Alternate Member: Anthony Ingraffea

Village Legal Counsel: William Troy

Village Engineer: Brent Cross

Village Trustee Liaison: None

Village CEO: Michael Scott

Dan Veaner from The Lansing Star; Olga Petrova, Roy Hogben; Serenna McCloud representing Mary Hudson; Mike Gavin and Ken Farrall representing The Shops at Ithaca Mall; Lynn Leopold, BZA Chair.

Approval of the Minutes July 28, 2020

Baker moved to accept the minutes of July 28. Seconded by McCauley.

Ayes: Baker, Greenwald, McCauley, Moll, and Schleelein.

Nays: None

Public Comment Period:

Schleelein opened the public comment period.

With no one else wishing to speak, McCauley moved to close the public hearing. Seconded by Moll.

Ayes: Baker, Greenwald, McCauley, Moll and Schleelein.

Nays: None

Schleelein read the following from the agenda:

Subdivision #2020-4403 Preliminary Plat Public Hearing

Mary Hudson, represented by Serenna McCloud of Coughlin & Gerhart, LLP, is seeking approval from the Planning Board for a subdivision of a parcel located at 134 Burdick Hill Road. The 5.53 acre lot, which contains land located within the Town of Lansing (Tax Parcel # 42-1-53.6) and the Village of Lansing (Tax Parcel 42.1-1-53.6), would be subdivided into 2 parcels. Parcel A would contain 2 acres and Parcel B would be the remaining 3.53 acres.

44 Schleelein noted that the subdivision was classified as minor at the last Planning Board meeting
45 and asked if there were any more questions. McCloud was then asked if the subdivision had been
46 approved in the Town of Lansing yet? McCloud replied no, the Town has a meeting on August
47 24th.

48

49 If the Planning Board decides to approve the subdivision, Scott recommends that the approval
50 from the Town of Lansing be a condition for the resolution. The Planning Board could also sign
51 the final plat and send it to the Town of Lansing for them to sign when approved. Schleelein asked
52 Troy which he would prefer. Troy answered that he would rather hold off on signing and wait until
53 the Town has finished.

54

55 Moll moved to close the public hearing. Seconded by Baker
56 Ayes: Baker, Greenwald, McCauley, Moll, and Schleelein.

57 Nays: None

58

59 Schleelein read the following resolution:

60

61 *VILLAGE OF LANSING PLANNING BOARD RESOLUTION FOR FINAL PLAT*
62 *APPROVAL OF MINOR SUBDIVISION # 2020-4403 ADOPTED ON AUGUST 10,*
63 *2020*

64 *Motion made by: Michael Baker*

65 *Motion seconded by: Carolyn Greenwald*

66 ***WHEREAS:***

67 *A. This matter involves consideration of the following proposed action: Final Plat approval of a*
68 *minor subdivision for Mary Hudson, represented by Serenna McCloud of Coughlin & Gerhart,*
69 *LLP, for the parcel located at 134 Burdick Hill Road. The 5.53 acre lot, which contains land*
70 *located within the Town of Lansing (Tax Parcel # 42-1-53.6) and the Village of Lansing (Tax*
71 *Parcel 42.1-1-53.6), would be subdivided into 2 parcels. Parcel A would contain 2 acres and*
72 *Parcel B would be the remaining 3.53 acres.; and*

73

74 *B. On July 28, 2020, the Village of Lansing Planning Board, in accordance with subsection D of*
75 *Section 125-5 and 125-6 of the Village of Lansing Code, (i) classified the proposed subdivision*
76 *as a minor subdivision; and (ii) reviewed the preliminary plat submitted with respect to this*
77 *proposed action; and*

78

79 *C. The Planning Board finds this to be a Type II action for SEQR purposes therefore, needing no further*
80 *review process; and*

81

82 *D. On July 28, 2020 and August 10, 2020, the Village of Lansing Planning Board held a public*
83 *hearing regarding this proposed action, and thereafter thoroughly reviewed and analyzed (i) the*
84 *proposed final subdivision plat and accompanying materials and information presented by and*
85 *on behalf of the applicant in support of this proposed action, including information and materials*

86 *related to environmental issues, if any, which the Board deemed necessary or appropriate for its*
87 *review; (ii) all other information and materials rightfully before the Board; and (iii) all issues*
88 *raised during the public hearing and/or otherwise raised in the course of the Board's*
89 *deliberations.*

90

91 ***NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:***

92 1. *Based upon all of its foregoing review and action, it is hereby determined by the Village of*
93 *Lansing Planning Board that approval of the proposed Minor Subdivision #2020-4403 is*
94 ***GRANTED***, *subject to the conditions and requirements set forth below;*

95

96 *Conditions and Requirements:*

97 *Approval of subdivision by the Town of Lansing*

98 2. *The Chairperson of the Village of Lansing Planning Board is hereby authorized and directed to*
99 *sign the final plat for the approved minor subdivision in accordance with subsection G of Section*
100 *125-6 and subsection A of Section 125-15 of the Village of Lansing Code.*

101

102 *The vote on the foregoing motion was as follows:*

103 *AYES: Michael Baker, Carolyn Greenwald, James McCauley, Monica Moll and Lisa Schleelein*

104 *NAYS: None*

105 Baker moved to approve the subdivision with the added condition. Seconded by Greenwald.

106 Ayes: Baker, Greenwald, McCauley, Moll, and Schleelein.

107 Nays: None

108 Motion is passed

109

110 Schleelein read the following agenda item:

111

112 ***Subdivision #2020-4402 Preliminary Plat Public Hearing***

113 *The Shops at Ithaca Mall, represented by Michael J. Gavin of Gavin Law, is seeking approval*
114 *from the Planning Board for a subdivision of Tax Parcel 42.1-1-22. The applicant is proposing to*
115 *subdivide tenant spaces in order to offer them for sale to existing and perspective tenants/affiliated*
116 *investors/owners.*

117

118 Scott led off by thanking Mike Gavin for the presentation at the last Planning Board meeting.
119 Basically, this meeting will consist of questions and concerns that the Village has about the mall
120 infrastructure. Schleelein agreed and said there is a lot of concern about the flooding that happened
121 a few years back and the possibility of it happening again. Other concerns are the water supply
122 and sewage lines to and from each tenant. Scott informed Gavin and Farrall that Bolton Point

123 requires one meter for every parcel. At this point, the total mall parcel has the one meter. What is
124 your plan for installing meters for each new parcel? As far as the sewer goes, it is a matter of who
125 is responsible for which part of the sewer system? Schleelein added that the mall has been there
126 for quite some time and so has the infrastructure. The Village wants to be assured that the
127 infrastructure is sound.

128

129 Cross:

130 What I have up to date is a map compiled by TJ Miller as sort of a surveyor's map. And it does
131 show fixtures such as, pipes, inlets, inverts and outlets. There's quite a bit there to look at, but what
132 it does not have is contours, which would indicate the grading around features. There's a number
133 of stormwater detention basins on the site, which are called out, but there's no surveying data
134 related to them to indicate the impoundment area. The question is what is the overtopping
135 elevation, the thing that we would be able to go back to in the event that there is some kind of
136 future problem with an event that causes an over-flow. We could then see, whether or not, the site
137 conditions that exist are consistent with the original design. Additionally, we could use the
138 location of specific information of outlet structures and inverts. For instance, if there are contours
139 around a pond, where is the low spot to determine the intended outlet point. Some of these details
140 we will need more information on.

141

142 I think a key point here that needs to be able to be identified is what elements of the stormwater
143 system are there for the sole purpose of conveying pass-through flow from upstream that comes
144 into the site from above. How do you know what advance systems are there dedicated to make that
145 happen versus what parts of the system are there to perform a storm water retention function for
146 onsite runoff from the impervious surface? I have been around long enough to have gone through
147 the fact that there was engineering associated with the Target end of the mall and the south end
148 where Dick's currently is.

149

150 I believe that TG Miller has captured the fact that those storm water infrastructures are there, but
151 there is not any detailed comprehensive document. If there was a problem, we'd have to go digging
152 back into individual projects to find what the design details were. To summarize, I am not ready
153 to give a final report yet.

154

155 Schleelein asked how would the Village know if the stormwater piping that goes under the Mall
156 is still good.

157

158 Cross: That's a good point and I should have commented on it. The map does show that there's a
159 48-inch corrugated metal pipe under part of the main structure. We have some local information
160 that would suggest that that pipe has had some problems in the past. There was work done by a
161 previous owner, but that information has never been shared with us. We don't know what the
162 physical condition of the pipe is. I can speculate that maybe the flow capacity of that pipe may
163 have been diminished in the repair process, but we don't have any firsthand knowledge of that. It
164 is definitely a concern that I have.

165

166 I believe that on the North end of the site, there is a co-mingling of the past-through flow with the
167 onsite flow and it makes it a little bit harder to tell if there's a problem. Is the problem created by

168 the pass-through flow, which none of us have the control of, or is it coming from the onsite runoff?
169 I think that at this point we don't have a comprehensive enough plan and answer to be able to
170 document it fully. This is some of the feedback I wanted to give you. Schleelein said that the
171 Village needs to verify the infrastructure and suggested perhaps a need for a study, similar to If
172 the Village or Planning Board were concerned about traffic, then we would ask for a traffic study.
173

174 Gavin: We are not proposing any changes to anything other than the lot lines. You get a traffic
175 study if we had a new use coming in. You get development and stormwater calculations if we were
176 changing impervious areas. We're not doing any of those things. When we started this however
177 long ago, we resisted doing the infrastructure inventory because all it is doing is telling you where
178 the pipes are. What you're now talking about is an as-built study, which is a tremendous amount
179 of money. The money that was spent on this is already a lot. And it isn't to add a new tenant it is
180 to try and keep the tenants that are there.

181

182 Schleelein added that Mr. Gavin is here to ask for a subdivision and this is the procedure and
183 questions the Planning Board goes through stipulated by Village Code whether it is a new build or
184 existing build.

185

186 Cross agreed and said this subdivision is not just a paper type proposal. There are real issues here
187 that the Village has become aware of over the years. Gavin responded that after 3 years, the
188 Planning Board is now asking for an as-built? Schleelein does not believe that 3 years ago Gavin
189 was asking for a subdivision. Yes, we were was Gavin's remark. Schleelein disagreed and said the
190 proposal back then was for a PDA.

191

192 Gavin: The methodology was determined by the Village after we met with them and told them
193 what we wanted to do. We are looking to get to the point where we can stabilize and retain tenants.
194 In three years, all we've done is bleed tenants. So, you're looking for more money to be spent when
195 the thing is on death's doorstep. This money needs to be retained and spent on tenants doing tenant
196 fit-outs, which is the appropriate juncture, which they can do all the studies that you're looking for
197 with their parcel and make the infrastructure improvements. If we spend this money on a status
198 quo, there is no money left to attract the tenant. Nobody said safe work shouldn't be done at the
199 appropriate juncture. The appropriate juncture is an application by a tenant to change their use and
200 comply with your regulations that are applicable at the time.

201

202 Greenwald said a discussion involving the stormwater system was had the first time you came here
203 3 years ago, right after it had just flooded. Gavin explained that the water came down the hill, not
204 from the Mall. Cross said water always comes down the hill with every rainstorm. That does not
205 mean the Mall gets to avoid the responsibility of conveying that water from your inlet side to the
206 outlet side. Every single property owner has that same responsibility. Gavin believes the water
207 came from the road bed which is not their responsibility. Cross disagreed, and said the flooding
208 occurred in the Mall's infrastructure which was later pawned off on the Village because the Mall
209 didn't want it anymore. Gavin feels that the Mall owners are where they were at 3 years ago, except
210 the Village now wants an as-built.

211

212 Schleelein said that the Planning Board does not just want to know where everything is located,

213 we want to know if all of the infrastructure is working properly. Farrall wanted to be clear that
214 Gavin and Farrall have given the Planning Board everything that has been asked for to date.

215

216 McCauley added that the request for the pipe inventory 3 years ago was in the context that there
217 was a problem at the time. Cross agreed with McCauley and added that nothing has been done to
218 the stormwater structure since that flooding. What's to believe it won't happen again.

219

220 Gavin wanted to know what other owners upstream have the Village requested this information.
221 Cross answered none, because they don't have this problem. Cross showed Gavin where the issue
222 seems to be on the site plan and suggested that a meeting be held between Cross and Gavin before
223 the next Planning Board meeting. At that point, Gavin could be given a discreet list of the Planning
224 Board requests and a comprehensive report from Cross. Gavin was frustrated and said he has
225 nothing to tell the existing tenants at this point because the Planning Board requests should have
226 been made 3 years ago. Baker said that everyone wants the Mall to be successful so why wouldn't
227 Gavin want to fix any issues to maintain it. Gavin told Baker to get to the point. Scott asked Gavin
228 why he was getting so upset when Gavin asked the Planning Board at the last meeting if they had
229 any questions.

230

231 Gavin: The document that addresses this is the Declaration of Easements, Covenants, Conditions and
232 Restrictions (ECCR) which was provided to the Planning Board three years ago. The ECCR states that if
233 the Village wants to own the infrastructure on the mall property, you're welcome to it. We
234 generally don't have municipalities wanting that they want us to continue to maintain and be
235 responsible for the infrastructure once it reaches the property line for the Mall. The way the ECCR
236 has written is that everything from the outside perimeter in is property of the Mall and the Mall is
237 responsible for it. The ECCR provides for all of the common elements, whether they be sewer,
238 water, access routes, or parking and lighting. All of that is paid for by the tenants on a pro rata
239 basis based on square footage and that's in the document. There are easements for people to put in
240 new utilities if they need a new line, whether it's water, sewer, electric or gas. If the municipality
241 prefers to own the infrastructure we will dedicate to them, rarely does that occur. We are managing
242 it today. We can manage it tomorrow.

243

244 Cross explained that Bolton Point requires separate meters for each parcel in a subdivision and it
245 is not the Planning Board that requires this. Baker asked Gavin if they are familiar with this
246 process. Farrall added that this is the first they have heard of this in the 3 years they have been in
247 the Planning Board process. Farrall would like all of the questions and concerns put together so he
248 and Gavin can address them all. Many agreed with this. Baker asked about the sewer units. Cross
249 explained how sewer units work.

250

251 Schleelein spoke about this subdivision being a unique situation because rarely does the Planning
252 Board look at a subdivision proposal for a site that is already built but that Village Code Chapter
253 125 still applies. Because the request 3 years ago was for a PDA Chapter 125 did not apply and
254 that is the reason for many of the questions not previously asked.

255

256 Greenwald believes there should be some type of plan for the interior development as well as
257 correcting any infrastructure problems. Farrall asked how long it would take for Cross to gather

258 up all of the questions and concerns that are out there. Gavin wanted to know if he could receive
259 an answer whether the subdivision proposal is viable or not at the next meeting. McCauley said
260 the Planning Board should not commit to anything with all of the issues that have been discussed.
261 Schleelein agreed. Gavin would like the information from Cross and others soon enough so that a
262 decision could be made by the owner on whether the money needed to get the subdivision approved
263 is viable. Cross, Scott, Troy and Courtney will gather questions and information together and work
264 on getting it all to Gavin by the middle of next week. Scott will set up a Zoom meeting for Friday
265 the 21st of August to discuss said information. There was various talk about stormwater and Gavin
266 explained how he gave examples of interior development possibilities at the last meeting.
267 Schleelein asked if there were any other questions and comments. Being none Schleelein thanked
268 Gavin and Farrall for coming.

269

270 **Other Business to report**

271 None

272

273 **Trustee Report**

274 Schleelein asked Ingraffea to report on the Trustee meeting of August 3rd. Ingraffea stated that the
275 meeting was mainly about the Lansing Meadows project and yet another proposed change which
276 is to subdivide the property so that each housing unit is a parcel. He has concerns that the Village
277 is being taken advantage of. Schleelein added that the Trustees decided to schedule a walk-through
278 at the Lansing Meadows job site. Schleelein also noted there are some similarities between what
279 Lansing Meadows is asking and what the Mall is asking.

280

281 Scott then showed the Planning Board the Lansing Meadows site plan and explained why the phase
282 I buildings build are different from what was approved. One of the buildings could not be built
283 over an active sewer main so one of the buildings planned for phase II was built. Schleelein asked
284 if the proposed subdivision would need variances. Scott explained that the Trustees would change
285 the setback, lot restriction, etc. and that would act as the variance. Greenwald asked Scott if the
286 Trustees were favoring the subdivision. Scott did not know. Schleelein told the Planning Board
287 that Goetzmann has applied to the IDA for a 6 month extension because of Covid-19.

288

289 There was more conversation about the Mall subdivision and the infrastructure.

290 Scott complimented the Planning Board for standing up to Gavin and not letting him bully them
291 around.

292

293 **Adjournment:**

294 Schleelein asked for a motion to adjourn at 9:03 PM. Moved by Baker. Seconded by McCauley
295 Ayes: Baker, Greenwald, McCauley, Moll, and Schleelein.

296

297 Minutes taken by: Michael Scott, CEO