

**Village of Lansing
Planning Board Meeting
May 11, 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,
3 Phil Dankert and Richard Durst; Village Attorney David Dubow; Village Engineer Brent
4 Cross; Code Enforcement Officer Ben Curtis; Trustee Liaison Lynn Leopold; and Lou
5 Terragnoli, Mike Biehler, Chris Wood, Ed Hooks and Bob Clinton from Tops Market.

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7 **Public Comment:**

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

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12 **Special Permit 2369, Tops Gas Station**

13 The next item on the agenda was continued discussion of Special Permit 2369, TOPS
14 Market, LLC, to construct a three pump fueling station in the parking lot of their existing
15 food market at 2300 North Triphammer Road in the Commercial High Traffic District, Tax
16 Parcel No. 47.1-1-21.1. Summarizing the previous meeting Hickey stated that it had been a
17 productive discussion which had narrowed the issues to be resolved at this meeting to five –
18 landscaping, contamination protection at the catch basins, signage, updated traffic studies and
19 whether an island would be striped or curbed. Noting that the Village Engineer Brent Cross
20 was not yet present to discuss the catch basins, Hickey moved on to landscaping, directing
21 the Board's attention to a revised site plan in their packets. The project Architect, Chris
22 Wood, noted that the plan had been updated again since the one the Board had been sent, to
23 add a couple of trees. The plan now shows 7 new blue spruce to help screen the loading dock
24 area and the 5 trees being removed from islands relocated to the perimeter between the
25 parking lot and Rt. 13. Curtis noted that no new trees are shown on the bank between the
26 fueling station and Rt. 13, and he had understood that the new trees were intended to help
27 screen the fuel station from Rt. 13.

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29 Summarizing, Biehler stated that at the April 29 meeting, they agreed that they would
30 provide the revised traffic reports; details of the catch basins and FloGard system; a graphic
31 showing exactly what they are proposing for the pylon sign; and a landscaping plan showing
32 exactly which trees are being removed and a description of what trees will be planted to
33 replace them and where. They prefer not to present for approval curbed islands for the
34 reasons mentioned, but if the Board insists, they will of course consider curbed islands.
35 Hickey noted that the curbed islands were one of the items in the County's 239 comments.
36 He asked that Tops take another look at this issue from a safety perspective. Michael Biehler,
37 Corporate Counsel and Director of Government Relations for Tops Markets, replied that they
38 can easily move the trees to meet the Village's objectives. Hickey and Curtis will meet with
39 their site crew to locate the trees when they reach the landscaping stage of the construction
40 project. As Cross had arrived, Hickey stated the Board would now consider whether the new
41 Island should be striped or curbed and also review the contamination protection provisions at
42 the catch basins. Wood reiterated that Tops would prefer that the new island be striped rather
43 than curbed because it is a small island which will not support much, if any, vegetation and it

1 comes to a point where concrete requires a minimum radius. A small island such as this
2 without vegetation is harder to see and sustains more damage from plows and accidental hits.
3 Cross indicated that the size and shape of the island could be changed so that it could support
4 vegetation and did not have sharp points that are easily damaged. After some discussion
5 Wood agreed to redesign the island as Cross suggested which will result in the loss of one
6 parking space. Wood stated that the curbed island would not encroach on the 24' driving
7 aisle width around the fueling station and that one or two of the relocated trees could be
8 planted in the new island to make it easier to see when there was snow on the ground. Cross
9 had reviewed the details of the FloGard system that captures any spilled fuel at the catch
10 basins before it can leave the site, and indicated he is satisfied.

11
12 Dankert reported that the Lighting Commission had not yet met to review the lighting plan,
13 but he would contact the other members and set up a meeting. Biehler reminded the Board
14 that the lights used in the canopy were recessed so that illumination did not go beyond the
15 property line. Hickey stated that the last issue to be resolved is the signage. He directed that
16 Board's attention to pictures of the proposed signage in their packets. The signage on the
17 kiosk had not changed since the initial presentation. The signage on the pylon includes a
18 panel at the top of the tenant signs for "Tops Fuel" matching the other 12" x 6' tenant signs
19 and below that panel an 18" x 6' panel with the price of unleaded regular gas in changeable
20 red LED numbers. The proposed signs will match the other panels except for the size of the
21 price panel and the LED display. Biehler reported that they had reviewed the proposal with
22 the landlord who will support the request subject to the approval of one of the tenants which
23 has in its lease the right to approve changes to the pylon sign. At this point the landlord is
24 reviewing the matter with the tenant. Curtis noted that the proposed signage constitutes an
25 amendment to the Tops Plaza Planned Sign Area and approval of such an amendment is
26 independent of Special Permit approval process. The amendment process will require a
27 separate application to the Planning Board and the Planning Board, in turn, will make a
28 recommendation to the Trustees who have the ultimate authority to approve or amend
29 Planned Sign Areas.

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31 With regard to the traffic studies, Hickey directed the Board's attention to a letter from
32 Tops' traffic engineer, FRA confirming its original determination despite the relocation of the
33 fueling station to the southeast corner of the property, and a letter from the Village's traffic
34 engineer, Fisher Associates, endorsing FRA's determination. There being no further issues to
35 resolve, Hickey then led the Board through the New York State Short Environmental
36 Assessment form. Dankert moved the following resolution, seconded by Stykos:

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38 **VILLAGE OF LANSING PLANNING BOARD RESOLUTION FOR SEQR REVIEW OF**
39 **SPECIAL PERMIT NO. 2369 ADOPTED ON MAY 11, 2009**

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42 **WHEREAS:**

- 43
44 A. This matter involves consideration of the following proposed action: Special
45 Permit 2369, TOPS Market, LLC, to construct a three pump fueling station in the
46 parking lot of their existing food market at 2300 North Triphammer Road in the
47 Commercial High Traffic District, Tax Parcel No. 47.1-1-21.1; and

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- B. This proposed action is an Unlisted Action for which the Village of Lansing Planning Board is an involved agency for the purposes of environmental review; and

- C. On May 11, 2009, the Village of Lansing Planning Board, in performing the lead agency function for its independent and uncoordinated environmental review in accordance with Article 8 of the New York State Environmental Conservation Law - the State Environmental Quality Review Act (“SEQR”), (i) thoroughly reviewed the Short Environmental Assessment Form (the “Short EAF”), Part I, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review (including any Visual Environmental Assessment Form required), (ii) thoroughly analyzed the potential relevant areas of environmental concern to determine if the proposed action may have a significant adverse impact on the environment, including the criteria identified in 6 NYCRR Section 617.7(c), and (iii) completed the Short EAF, Part II;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Village of Lansing Planning Board, based upon (i) its thorough review of the Short EAF, Part I, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review (including any Visual Environmental Assessment Form required), (ii) its thorough review of the potential relevant areas of environmental concern to determine if the proposed action may have a significant adverse impact on the environment, including the criteria identified in 6 NYCRR Section 617.7(c), and (iii) its completion of the Short EAF, Part II, including the findings noted thereon (which findings are incorporated herein as if set forth at length), hereby makes a negative determination of environmental significance (“**NEGATIVE DECLARATION**”) in accordance with SEQR for the above referenced proposed action, and determines that neither a Full Environmental Assessment Form, nor an Environmental Impact Statement will be required; and:

2. The Responsible Officer of the Village of Lansing Planning Board is hereby authorized and directed to complete and sign as required the Short EAF, Part III, confirming the foregoing **NEGATIVE DECLARATION**, which fully completed and signed Short EAF shall be attached to and made a part of this Resolution.

The vote on the foregoing motion was as follows:

AYES: Ned Hickey, Maria Stycos, Phil Dankert and Richard Durst

NAYS: None

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2 The motion was declared to be carried.

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4 Hickey then reviewed Section 145-59E of the Village of Lansing Code, General Conditions
5 Required for All Special Permits. Cross asked if the kiosk would be connected to municipal
6 water and sewer. Wood responded that it would not. Curtis noted that the Building Code may
7 require that a bathroom be provided for employees. It was agreed that the matter would be
8 resolved as part of the Building Permit review and was not an issue with regard to the
9 General Conditions. Durst moved that the project meets all of the conditions, seconded by
10 Stycos, all in favor. Discussion ensued with regard to conditions of approval. Dankert then
11 moved the following resolution, seconded by Stycos:

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14 VILLAGE OF LANSING PLANNING BOARD RESOLUTION FOR SPECIAL PERMIT
15 NO. 2369 ADOPTED ON MAY 11, 2009
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18 **WHEREAS:**

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20 A. This matter involves consideration of the following proposed action: Special
21 Permit 2369, TOPS Market, LLC, to construct a three pump fueling station in the
22 parking lot of their existing food market at 2300 North Triphammer Road in the
23 Commercial High Traffic District, Tax Parcel No. 47.1-1-21.1; and
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25 B. On April 29, 2009, the Village of Lansing Planning Board held a public hearing
26 regarding this proposed action, and thereafter reviewed and analyzed (i) the
27 materials and information presented by and on behalf of the applicant in support
28 of this proposed action, including information and materials related to the
29 environmental issues, if any, which the Board deemed necessary or appropriate
30 for its review, (ii) all other information and materials rightfully before the Board,
31 and (iii) all issues raised during the public hearing and/or otherwise raised in the
32 course of the Board's deliberations, whereupon it was determined that further
33 information, materials and Board deliberation would be required, particularly with
34 respect to traffic impacts and studies, internal traffic flow matters, off-street
35 parking requirements, safety issues and related matters, and whereupon the
36 applicant then requested additional time to submit further information and
37 materials as required; and
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39 C. On May 11, 2009, the Village of Lansing Planning Board once again continued its
40 discussion with the applicant regarding the proposed action and further reviewed
41 the formal application materials, including the supplemental information and
42 materials submitted by the applicant with respect to traffic impacts and studies,
43 internal traffic flow matters, off-street parking requirements, safety issues and
44 related matters, and thereafter further evaluated and analyzed (i) the materials and
45 information presented by and on behalf of the applicant in support of the proposed
46 action, including the supplemental information and materials submitted by the
47 applicant, and including information and materials related to the environmental

1 issues, if any, which the Board deemed necessary or appropriate for its review, (ii)
2 all other information and materials then rightfully before the Board, and (iii) all
3 issues raised during the public hearing and/or otherwise raised in the course of the
4 Board's initial and subsequent deliberations; and
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6 D. On May 11, 2009, the Village of Lansing Planning Board determined that the
7 proposed action is an Unlisted Action for which the Board is an involved agency,
8 and in performing the lead agency function for its independent and uncoordinated
9 environmental review in accordance with Article 8 of the New York State
10 Environmental Conservation Law - the State Environmental Quality Review Act
11 ("SEQR"), the Board (i) thoroughly reviewed the Short Environmental
12 Assessment Form (the "Short EAF"), Part 1, and any and all other documents
13 prepared and submitted with respect to this proposed action and its environmental
14 review (including any Visual Environmental Assessment Form required), (ii)
15 thoroughly analyzed the potential relevant areas of environmental concern to
16 determine if the proposed action may have a significant adverse impact on the
17 environment, including the criteria identified in 6 NYCRR Section 617.7(c), (iii)
18 completed the Short EAF, Part 2; and (iv) made a negative determination of
19 environmental significance ("Negative Declaration") in accordance with SEQR
20 for the above referenced proposed action and determined that an Environmental
21 Impact Statement would not be required; and
22

23 E. On May 11, 2009, in accordance with Section 7-725-b of the Village Law of the
24 State of New York and Sections 145-59, 145-60, 145-60.1 and 145-61 of the
25 Village of Lansing Code, the Village of Lansing Planning Board, in the course of
26 its further deliberations, reviewed and took into consideration (i) the general
27 conditions required for all special permits (Village of Lansing Code Section 145-
28 59E), (ii) any applicable conditions required for certain special permit uses
29 (Village of Lansing Code Section 145-60), and (iii) any applicable conditions
30 required for uses within a Combining District (Village of Lansing Code Section
31 145-61);
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33 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**
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- 36 1. The Village of Lansing Planning Board hereby finds (subject to the conditions
37 and requirements, if any, set forth below) that the proposed action meets (i) all
38 general conditions required for all special permits (Village of Lansing Code
39 Section 145-59E), (ii) any applicable conditions required for certain special
40 permit uses (Village of Lansing Code Section 145-60), and (iii) any applicable
41 conditions required for uses within a Combining District (Village of Lansing
42 Code Section 145-61); and
43
44 2. It is hereby determined by the Village of Lansing Planning Board that Special
45 Permit No. 2369 is **GRANTED AND APPROVED**, subject to the following
46 conditions and requirements:
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- 1 1. **Approval by the Chairman of the Planning Board of a revised site plan**
2 **showing the additional landscaping and curbed island discussed at the**
3 **May 11, 2009 Planning Board meeting.**
- 4
- 5 2. **Approval by the Village of Lansing Lighting Commission of the**
6 **Lighting Plan**
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9 The vote on the foregoing motion was as follows:

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11 **AYES: Ned Hickey, Maria Stycos, Phil Dankert and Richard Durst**

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13 **NAYS: None**

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15 The motion was declared to be carried.

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18 **Special Permit 2370, 94 Burdick Hill Road**

19 The next item on the agenda was continued discussion of Special Permit #2370, Paul Cardon,
20 to construct a 288 sf shed for the single family house at 94 Burdick Hill Road in the Low
21 Density Residential District, Tax Parcel Number 42.1-1-50.281. Curtis reported that he had
22 spoken with Cardon and that Cardon was still weighing his options. It is not clear at this
23 point how Cardon will proceed. Stycos moved to adjourn the hearing until the Board's next
24 meeting on May 26, seconded by Durst, all in favor.

25

26 **Way-finding Sign Amendment**

27 Directing the Board's attention to a proposed local law in their packets amending the Sign
28 Law to permit a particular type of way-finding sign, Hickey reminded the Board that
29 Homewood Suites had requested a way-finding sign at the intersection of Sheraton Drive and
30 North Triphammer Road because such is required by NYS DOT as a condition for approving
31 Homewood Suite's application for a travel sign on Rt. 13. The Board had directed the Village
32 Attorney to draft a proposed law which would permit such a sign in the limited circumstance
33 where such a supplemental sign is required by NYS DOT as a condition for participation in
34 their program. The supplemental sign was to be similar in appearance to the one on Rt 13 as
35 that is what NYS DOT requires, and subject to the same general rules with regard to
36 installation and maintenance as those for the State Sign Program. Dubow explained that New
37 York State had developed a supplement to the National Manual of Uniform Traffic Control
38 Devices to provide for tourist-oriented directional signage. These signs are intended to alert
39 tourists to the availability of tourist-oriented businesses such as gas stations, restaurants,
40 hotels, motels resorts and golf courses near State highways, and to direct tourists to those
41 businesses. The State Program requires that once a tourist has left the highway there is
42 supplemental signage at key decision points in the route leading to the identified businesses.
43 The proposed law would permit such supplemental signs where required for participation in
44 the State Program and subject to approval by the Planning Board. Dubow asked the Board to
45 advise him as to what the Board wanted to be submitted as part of the application for such a
46 sign and what criteria they considered appropriate to determine whether to approve such a
47 sign. Hickey stated that two issues came immediately to mind. One is the location of a sign

1 and he thought that should be subject to approval by the Village Superintendent of Public
2 Works. The second issue is the size and appearance of the signs and here he thought that the
3 signs should match the State approved signs that are posted on Rt.13. Curtis noted that the
4 State approved signs are 15" x 24" and that he understood from his discussion with Steve Root
5 at NYS DOT that DOT wanted the supplementary signs to match the highway signs to enhance
6 visual recognition. Typically the signs on the highway include 4 of the 15" x 24" signs as
7 panels in a single rectangular sign. Currently, the Clarion Inn and Econolodge are
8 represented on the sign along with possibly the Ramada. Leopold asked what would happen
9 to the supplemental sign if a business no longer had a highway sign – would the Village sign
10 be taken down as well? Dubow noted that this was the sort of detail that should appear in the
11 law as criteria or conditions of approval. Hickey responded that the Village sign must be
12 linked to the highway sign because the only reason for permitting the Village sign is that it is
13 a condition for the State to approve the highway sign. The intent is to permit the
14 supplemental Village sign only where it is required as a condition for the State to approve a
15 highway sign.

16
17 With regard to application material for these signs, Curtis stated that the same information
18 required for other signs would suffice – location of the sign, a picture showing content, color,
19 size, height, etc., permission of the property owner where it is erected – in this case the
20 Village, assuming it is in the r.o.w. – etc. With regard to height Curtis noted that handicap
21 signs must fall between 5' and 7' above adjoining pavement and that might be a good standard
22 to use, but, if close to a walkway, maybe it should be higher for headroom. Dubow noted that
23 the criteria being identified was generally ministerial in nature with nothing really guiding
24 the discretion of the Planning Board. He asked if the Planning Board needed to be involved
25 in the decision at all as opposed to simply instructing the Code Officer as to what conditions
26 must be met and authorizing the Code Officer to issue the permit when and if the conditions
27 are met. If the Planning Board is to exercise discretion, there should be criteria on which they
28 base their determinations as is the case for Special Permits where the General Condition must
29 be met. The location of the sign might be one aspect over which the Planning Board would
30 exercise discretion. The Superintendent of Public Works might make a recommendation to
31 the Board consistent with his operations and applicable traffic regulations and within the
32 scope of that recommendation the Planning Board could approve an exact location. Hickey
33 confirmed that the approval of such signs should be subject to Planning Board approval.
34 Dubow responded that he could adapt some of the criteria from the General Conditions for
35 Special Permits which the Planning Board can use in making their determination. With
36 regard to height of sign, Curtis suggested that it be no higher than 9' to allow for headroom if
37 the sign is near a walkway, and subject to approval by the Superintendent of Public Works.
38 Cross added that traffic signs are generally subject to motor vehicle regulations which the
39 Superintendent of Public Works will be aware of.

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41 Curtis noted that the NYS DOT incorporates in its program requirements that the business
42 must meet with regard to paying for and maintaining the signs, and the Village should
43 probably incorporate similar language for the supplemental signs. Cross responded that there
44 are established mechanisms in the form of licenses or leases that can govern use of a public
45 r.o.w. by a private entity. Dubow pointed out that the purpose of the law was to enable
46 businesses to meet the requirements of the NYS DOT Sign Program which in turn makes it

1 more complicated for the Village to later revoke a license upon which the State has relied. In
2 addition, the Trustees will have to be involved in entering into a license as the Planning
3 Board lacks the authority to do so.
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5 **Zoning Review**

6 Hickey noted that the Board had left off at Section 145-24, *Buffer Strips*. He had no concerns
7 regarding the first part of the section, but did have concerns with the second part (starting at
8 subsection E) concerning *variable width buffer strips*. He noted that Subsection F(1) requires
9 the submittal of 2 plans – one showing compliance with standard buffer strip requirements
10 and the second showing the proposed variable width buffer strip. Hickey did not think the
11 Board followed this procedure nor did he think it would be useful in most cases. Dubow
12 responded that it was comparable to the cluster subdivision process where a standard
13 subdivision was laid out to establish density and then the cluster subdivision was laid out
14 using the density from the standard subdivision. The first plan provides the base line against
15 which the second is judged. Likewise, the standard buffer strip plan provides a base line
16 against which to judge the effectiveness of the variable width buffer strip. Hickey noted that
17 Section D spells out the requirements for a standard buffer strip and thereby the section itself
18 establishes the base line, and, in practice, the Planning Board has relied on this section rather
19 than an alternate plan to judge whether or not the proposed variable width buffer strip was
20 equivalent to a standard buffer strip. Curtis added that the Planning Board most commonly
21 considers variable width buffer strips where there is some practical difficulty to provide a
22 standard buffer strip, and physically showing a standard buffer strip on a lot where from a
23 practical perspective such a buffer can not be provided may not accomplish the purpose this
24 section intended. Dr Arleo's building is a case in point as is the Colonial Vet. Hickey
25 directed the Board's attention to Subsection J which allows the Planning Board to waive
26 certain of the requirements for a buffer strip or variable width buffer strip where special
27 circumstances warrant and the proposed buffer strip satisfies the purpose of a buffer, noting
28 that the Board may be relying heavily on that section in approving some of the variable width
29 buffer strips it has approved in the past. Hickey noted that the Board can not really judge the
30 effectiveness of a buffer strip until is installed and comparing plans on paper is of little value.
31 Dubow remarked that by using the various sections of the buffer strip provisions, the Board
32 has generally been able to achieve its basic goals, and he cautioned against tinkering with the
33 provisions. Hickey somewhat reluctantly agreed.
34

35 Discussion ensued about Section 145-27 Tree Preservation. Curtis recalled that when this
36 issue was raised with regard to a home owner who had cut down a number of large trees in
37 his front yard, the direction he had gotten at the time was that this section was intended to be
38 a general statement of principle or policy rather than a strict prohibition against cutting down
39 trees in the Village. Dubow stated that as a practical matter it is very difficult to regulate
40 something as basic as cutting down or otherwise managing trees on private property without
41 exceeding the limits of authority for zoning laws. Curtis noted that the Board did apply the
42 principles inherent in this section in requiring developers to replace trees they remove in the
43 course of development. Curtis reminded the Board that the issue of urban forestry and tree
44 preservation comes up from time to time, usually when a property owner takes down some
45 trees, and that while it is very complicated, there are models available for regulating some
46 aspects of tree preservation. Hickey recalled that former Planning Board Member Doris

1 Brown had proposed some measures to preserve trees – possibly identifying and inventorying
2 significant trees in the Village. The Village has undertaken an inventory and maintenance
3 program for trees on Village property. Dubow noted that the Planning Board has required the
4 planting of trees as part of Special Permit approval for commercial projects and required
5 replacement of trees where commercial development requires tree removal.

6
7 Moving on to Section 145-29, Maintenance of Lot, Hickey noted that the Village does not
8 have any specific requirement for property owners to mow their lawns. Curtis responded that
9 in the 19 years he has worked for the Village, lawn maintenance has only come up a few
10 times where there was usually an explanation and the situations were corrected after the
11 owners were contacted. Hickey noted that he is aware of cases in his neighborhood where
12 lawn maintenance is deficient even though those cases have not resulted in a complaint being
13 filed. Dubow suggested that there may be provisions in the Property Maintenance Code of
14 New York that would apply.

15
16 Moving on to Section 145-30, Hickey noted that the Section does not mention boats and
17 similar items that people park in their yards and suggested they should be added as this is a
18 common practice. Curtis responded that the matter is probably already covered, at least
19 implicitly, under 145-56(C) which states “...no permit is required for normal maintenance
20 and repair work, for painting, interior decoration, landscaping, removal of dead or diseased
21 trees, nor, in residential districts, for storage of travel trailers, snowmobiles, boats and similar
22 objects.”

23
24 Hickey stated that these were all the issues he had identified in the course of his review up to
25 and including Section 145-39 Low Density Residential District (LDR). Curtis stated that he
26 had discovered an error in 145-39.1 Shannon Park Planned Development Area. Under
27 Subsection D, Permitted with Special Permit: General and Additional Conditions, the use,
28 *additional residential building on a single lot*, should be added as it was clearly intended to
29 be included under that Section and its omission was undoubtedly an inadvertent error.

30
31 Discussion ensued regarding *other uses* that would be affected by the 75’ front yard setback
32 in residential districts, and moveable buildings. Hickey commented that in his view the
33 Zoning Law review, while it has not turned up a lot of things requiring change, has been
34 worthwhile in that it has helped the members learn what is in the Law. Curtis added that the
35 discussion was generating, through the minutes, a list, for himself and Dubow, of errors to be
36 corrected and hopefully, for the Board, a list of issues such as tree preservation which might
37 warrant further action somewhere along the line. Hickey suggested that at the May 26
38 meeting the Board review the remaining residential districts, Sections 145-40 & 41.

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40 **Approval of Minutes**

41 Durst moved that the minutes for the March 31 meeting be approved as amended, seconded
42 by Dankert, all in favor.

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44 **Adjournment:**

45 Durst moved to adjourn at 9:45 P.M. Seconded by Stycos. Ayes by Hickey, Dankert, Durst,
46 and Stycos. Motion carried.