

**Village of Lansing  
Board of Zoning Appeals  
September 24, 2001**

The meeting of the Village of Lansing Board of Zoning Appeals was convened at 7:35 P.M. by Acting Chairperson Mary Sirois. Present at the meeting were Board members Don Eckrich, Lorraine Johnson, John Dennis and Mike Ward, Code Enforcement Officer Ben Curtis, Acting Village Attorney William Troy, and members of the public.

**Appeal 2001-3**, Robert R. Colbert Jr., to construct a driveway from a proposed 18,000 sf office building at 2353 N. Triphammer Road in the Commercial Low Traffic District, Tax Parcel No. 47.1-3-4.1, over an existing easement across the property of Christ Chapel, 160 Graham Road, Tax Parcel No. 41.1-3-4.2, with the curb cuts on Graham Road. A variance is required because the driveway constitutes a commercial use and the Christ Chapel property is in the Medium Density Residential District where such commercial use is not permitted. Additionally, a variance is required because the driveway would cross a buffer strip required on the 2353 N. Triphammer Road property to separate commercial uses from residential districts and such development within a required buffer strip is not permitted.

Sirois announced that Colbert has requested a postponement of the hearing scheduled for tonight until the next meeting of the Board. Troy noted that Marcus had informed the applicant that he, Marcus, could not agree to a postponement but rather the applicant that he must make a request to the Board for the postponement.

Curtis noted that there is another hearing scheduled for the meeting on October 16<sup>th</sup>. Eckrich moved that the Colbert hearing be rescheduled for October 16<sup>th</sup> and be placed second on the agenda. Seconded by Johnson. During discussion, Ward noted that the original reason for a postponement was because according to procedure, a memo was lacking from the Planning Board. This has now been received by the Board. Ward noted that there was not much additional information provided. Eckrich asked for clarification on the next to last paragraph on the memo from the Planning Board. It will be reviewed to see if there is a typographical error. All aye.

**Appeal 2001-6**, Cornell University Lab of Ornithology to construct an 80,000 sf building for use as office space, research, and public exhibition and assembly to replace their existing facility at 159 Sapsucker Woods Road, in the Research District, Tax Parcel No. 45.1-1-55.4 A variance is required because the top of the exhaust stacks for the HVAC equipment will be 54'6" above the average finished grade and Section 202.10(d)8 of the Village of Lansing Zoning Law states that the maximum height of all principal uses in the Research District is forty-five feet.

Michael Husar, Cornell Planning, Design and Construction at the Humphreys Service Building, spoke first. He is the project manager for the Lab of Ornithology renovations. He stated the only neighbor

within the Village is the NYSDOT on Route 13. The Town of Ithaca neighbors are a considerable distance from the site. The overall building height was designed within the 45 feet limitation. Cornell hired ENSR from Syracuse to evaluate the exhausts from the laboratory boilers and stacks as they went above the 45 ft. limit. Utilizing a computer model, ENSR studied this and determined that the diameter of the stacks should be 24 inches but could be reduced to 20 inches to increase the exhaust velocity and minimize the stack height requirements. It was recommended that the stack be 20 ft. above the roofline. The twenty feet is taken from the roofline and the bottom ten feet are encased in a shroud for physical support and to minimize visual impacts. Husar stated that this variance is limited to exhaust stacks and chimney, which make up less than one percent of the building footprint. Finally, Husar noted that by increasing the stack heights to the current elevations, potential adverse environmental impacts would be avoided.

The stacks would be on the east side of the building which would not be readily seen by the public along the buffer zone. Husar noted that there would be five exhaust stacks exceeding the height limitation by nine and a half feet and a twin chimney which would exceed the height limitation by six and a half feet.

Scott Sutcliffe, Associate Director of Lab of Ornithology, stated that the air intakes are on the second floor and the Board of Directors stipulated that the heating and cooling systems be placed within the building and only the chimney and stacks be on the roof. They are on the east side because of the design of the building.

Ward asked for clarification on how this might affect flight traffic since it is near the airport. Curtis stated that the FAA has already given their approval for the project.

Eckrich asked why one chimney/stack was higher than the other. Sutcliffe responded that it was based on the fact that one exhausts from a fireplace and the other exhausts from a fume hood. Also taken into consideration is the distance from air intakes.

Dennis asked how the 54 foot height compares to the canopy height of the forest surrounding it. Sutcliffe felt they would be comparable and did not think the stacks would be visible from Route 13 but he is unsure. Ward noted that part of the site is currently visible from Route 13. Ward is still concerned about the design of the middle section and its elevation and why the architect did not keep the building under 45 ft. when that was a Village height requirement. Curtis noted that from a building code perspective the height of the chimney must be two feet above any point within ten feet of it horizontally.

Eckrich would have liked to see data about entrainment probabilities for the varying heights of the stacks. Sutcliffe did not know if this information is available as they were advised by their engineers to go with the higher heights. Sutcliffe stated that the exhaust of the existing building is six feet above the roofline and the intake is at the roofline but these would not be comparable to the new building as the new building and old building are at different elevations. Curtis stated that a similar entrainment

problem occurred at the Cinema 4 Theaters and CO detectors were required.

Sirois reviewed the plantings. Sutcliffe stated they would be planting twelve foot trees and the area surrounding the building would be heavily wooded in about twenty years. John Heintz, consulting engineer from Alexandria Virginia, stated that the impacts are less than 1.5% of the wetlands.

Johnson moved to close the Public Hearing. Seconded by Ward. All aye.

Johnson stated she felt this was an annoyance as the architects hired should have designed this correctly. Secondly, she was concerned about the visibility of the smokestacks and if they were going to be surrounded by trees, she was inclined to be less concerned. Sirois reviewed the trees to be planted and stated they were all tall trees and the willows would be fast growing.

Curtis stated this action is an unlisted action and does not require a long-form SEQRA Review, but a short form EAF must be completed. It was noted that a SEQR was done for the entire project and that this one would apply only to the height of the stacks. The Board completed the Short Environmental Assessment Form for unlisted actions: A No; B No; C1 No; C2 No, recommendation is stacks be a gray or flat color rather than stainless steel or a reflective surface; C3, No, previously considered; C4 No; C5 No; C6 No; C7 No; D No.

Johnson moved a determination that the proposed action will not result in any significant adverse environmental impacts. Seconded by Dennis. All aye.

In making their determination, the Board based their decision on the following findings:

- a) *Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by granting the area variance.*

Finding: No. The BZA determined that there would not be an undesirable change as Cornell owns most of the adjoining land, nothing can be built to the east in the airport flight path, and the one neighbor has no objection.

- b) *Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance.*

Finding: No to the 9 foot variance request because it could not be achieved any other way and yes to the 6 foot chimney increase, which is a design issue, and the chimney could be built another way to the comply with the zoning requirements.

- c) *Whether the requested area variance is substantial.*

Finding: Yes, because there has been a request for an additional 9 feet and there will be 5 stacks which will be 20% above the height limitation.

- d) *Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.*

Finding: No.

- e) *Whether the alleged difficulty was self-created; however, the Board of Zoning Appeals' determination, following such consideration under this subsection (e), that a difficulty was self-created shall not necessarily preclude the Board's granting of the variance.*

Finding: Yes. To some extent, it is self created through design decisions, but some of the considerations that led to those decisions were generated by site specific conditions beyond the control of the applicant. It was also noted that roof top units, though aesthetically less pleasing, could be utilized.

Eckrich moved to reopen the Public Hearing to discuss b) above. Seconded by Ward. All aye.

Sutcliffe stated that air quality in the area varies. He noted that some days a jet fuel smell is prevalent and other days it is not but that would be why he feels a higher stack would be more desirable. Eckrich asked what other objections, other than the airport special conditions, should be noted for lowering the height of the fireplace chimney. Sutcliffe stated aesthetics would also be important. Heintz stated the airflow calculations for the stacks included the chimney height as shown. Heintz further stated that changing one aspect of the design such as lowering the chimney might affect the results of those calculations. He stated that ENSR modeled what is being proposed and the needs of the building would be met. Any change would require remodeling. Dennis felt the higher the height of the chimney, the more dispersal of exhaust.

Ward moved to close the Public Hearing. Seconded by Eckrich. All aye.

The Board returned to b). Sirois stated she felt that if this works for the building, then it should be approved. Dennis was in agreement. Ward recommended seeing the model if the chimney were dropped 6 feet and seeing if it would change the entrainment calculation. Johnson and Eckrich stated they are both unclear as to what the result would be. Johnson stated that the BZA is being asked to break the law for 5 stacks at 9 feet each which equates to 45 feet plus the chimney. Eckrich is unsure of aspects, such as the color of the stacks, and would like to postpone this until more details can be provided on these stacks as the Board appears to be split. Dennis feels there is an aesthetic and pollution concern and the Board should grant the variance. Ward stated the designers should keep within the guidelines of our laws unless there are very compelling reasons that they can not and the BZA is unaware of whether there are other options. Ward felt that the applicants did not consider

dropping the chimney down to meet the Zoning Law but rather chose a model with the chimney and smokestacks simply because that is what the designers proposed. Ward and Sirois were in agreement that the stacks needed to be higher but were not convinced that the chimney had to be higher. Sirois stated she would prefer to see the application as two separate items but since it came in together, it must be looked at as one.

Eckrich felt it might be important to ask the applicant to see if it is possible to meet the height requirement for the chimney. Ward stated he has a hard time with the fireplace and would like to see it designed within the zoning requirements. Johnson stated this is not inconsequential, although the building is very large.

Johnson moved to continue the hearing and request additional information from the applicants regarding lowering of the chimney, color of fire stacks, type of metal of stacks, texture of stacks, and to be provided with a model to meet building code and zoning requirements for the chimney. Seconded by Eckrich. Ayes by Eckrich, Johnson and Ward. Motion carried.

Dennis recommended approving the five stacks and asking the applicants to re-look at the chimney issue to see if it could meet the zoning requirement.

Sutcliffe stated that answers could be provided by the October 16<sup>th</sup> meeting.

Johnson moved to withdraw the motion just made.

Dennis moved to grant the variance contingent upon the five stacks being non-reflective and that the fireplace chimney be built to comply with the zoning law or building code, whichever is higher, and that the applicant be permitted to continue this application at the October 16<sup>th</sup>, 2001 meeting for the sole purpose of requesting a variance with respect to the fireplace chimney, if necessary. Seconded by Eckrich. All aye.

### **Approval of Minutes – August 21, 2001**

Next, the Board reviewed the minutes of August 21, 2001. Eckrich moved the minutes be approved with revisions. Seconded by Ward. All aye.

### **Adjournment**

Johnson moved to adjourn the meeting at 9:38 P.M. Seconded by Ward. All aye.