

**Village of Lansing  
Board of Zoning Appeals  
March 1, 2006**

The meeting of the Village of Lansing Board of Zoning Appeals was convened at 7:37 P.M. by Acting Chairperson Don Eckrich. Present at the meeting were Board members David Newman, Patrick Gillespie and John Wisor; Alternate Member Dolores Adler; Code Enforcement Officer Ben Curtis; Village Attorney David Dubow; Village Engineer Brent Cross; and members of the public.

Eckrich appointed Alternate Member Adler to serve as Acting Member for Mary Sirois who was not able to attend this meeting.

**Appeal No. 2006-1, Omnipoint Communications, Inc.**

The first item on the agenda was a Public Hearing for Appeal No. 2006-1, Omnipoint Communications, Inc. to construct a telecommunications facility for T-Mobile consisting of a 44 foot pole with a 10' x 16' enclosure at its base on property located at 2350 North Triphammer Road (current site of the McDonald's restaurant) in the Commercial Low Traffic District, Tax Parcel No. 47.1-1-17.82. The site is designed to provide in-building service coverage to malls and surrounding areas in the Village of Lansing and Route 13. A variance is required because there is a structure (parking lot and drive lanes) located within the fall zone required by Village of Lansing Code Section 145-60 (k) of the Zoning Law where no structure is permitted under that same section.

Curtis stated he has received the required Proof of Mailing.

Attorney Matt Kerwin from Syracuse gave the presentation on behalf of T-Mobile Communications. Also accompanying him were Jean King, Director of Regional Real Estate for T-Mobile, Gerald Brophy, Site Acquisition Specialist for T-Mobile USA, and Mike Crosby, Senior Radio Frequency Engineer for T-Mobile USA. Kerwin first distributed additional material regarding the project.

As background, Kerwin stated that the applicants have gone before the Planning Board on three occasions. Initially, there were 13 sites proposed as possible locations for the tower. Lengthy discussions with the Planning Board Chairman Hickey and Curtis culminated in a request for a Special Permit. In the course of Planning Board review, two additional sites were identified. All sites were evaluated using three basic criteria: that the site provide adequate coverage, that the site be easily accessible, and the site be easily developed within local zoning requirements. All sites were ruled out except the McDonalds site. The site is a flat area with light poles that would reduce the visual impact of a telecommunication facility of similar design. The applicants reviewed impact of the proposed telecommunication facility on the community in terms of height, aesthetics, etc. The Planning Board approved the Special Permit conditioned on the project being granted a variance by this Board. Kerwin stated today's request is twofold: first, an interpretation of the portion of the Zoning Law under which Curtis determined that a drive lane and parking lot is a structure, and secondly, in the

event that Curtis' interpretation is upheld, approval of the variance application. Curtis stated he had not been informed that the applicant was seeking an interpretation. Kerwin stated it was included in the application. Curtis stated that because he was unaware of their intention to seek an interpretation, the request for an interpretation was not advertised and could not be considered without readvertising the hearing. Dubow recommended that the applicant defer the request for interpretation as it was not advertised and instead proceed with the portion regarding the request for a variance for the fall-zone requirements. After that is considered, the applicant could decide how to proceed with regard to the other issue.

Kerwin proceeded with the reasoning as to why the Board should grant the variance under Village Code Section 145-74 of the Zoning Law. Kerwin stated there would not be an undesirable change in the character of the neighborhood as this will be a pole similar to the light poles already in the McDonalds parking lot. The pole would be 44 ft. high with a 10' ft. x 16' ft. concrete enclosure for equipment similar to the existing dumpster enclosure. The pole will be designed to withstand sustained winds of up to 100 mph. The concrete structure will be screened. The property is located in a Commercial Low Traffic area already surrounded by commercial establishments. Kerwin further noted that this pole will be designed to match as closely as possible the McDonald's light poles. Adjacent properties would not be affected as the facility is not close to any habitable structures. Regarding the benefits, the applicants have reviewed 15 sites and determined this as the best site within the ring where coverage is needed. Kerwin stated the consultant for the Planning Board also determined this is the best site. Within the site, it was determined that this is the best place on the lot for the pole to be located. As to whether the requested area variance is substantial, it should be noted that there are already poles in this area and this will significantly reduce the visual impact of the T-Mobile pole. The fourth criteria regards adverse effect on the environment. The pole blends in with the area and is well constructed as it will sustain 100 mph winds. The pole is also lower than some 50+ high utility poles in the area. Kerwin stated T-Mobile is required to provide coverage in areas where they are licensed, and have demonstrated the need to locate a pole on this site to meet that requirement. The Planning Board was in agreement that this was the only viable location and the only place on the site where this pole could be located.

Eckrich opened the Public Hearing.

As there was no one who wished to speak, Newman moved to close the Public Hearing. Seconded by Gillespie. Ayes by Adler, Eckrich, Gillespie, Newman, and Wisor. Motion carried.

Dubow stated the only issue for this Board is the height of the structure and Section 145-60 (k) of the Zoning Law which requires a fall zone with a diameter 1 ½ times its height in which there is no structure. Dubow stated the Planning Board has carefully reviewed other aspects of the project prior to their granting their approval, including all of the criteria and requirements applicable to Special Permits for telecommunications facilities. Although the Planning Board completed a SEQRA review and made a negative declaration, the BZA will also be required to do a SEQRA review.

Cross stated that the pole will be designed in final form after site investigations and soil evaluations are done. If a variance is granted by this Board, then the applicant will do soil investigations. The tubular pole structure itself is strong and is continuous. The pole is generic and can go anywhere, but the foundation will be designed specifically for this site. Cross stated that the Planning Board requested the pole be designed to sustain 100 mph winds rather than just 90 mph winds. Cross stated any pole shorter than 60 ft. requires only simple structural analysis. Cross stated that he will review the information and it should be relatively straight forward to determine if the proposed pole and foundation meet the criteria imposed by the Planning Board. Dubow further noted that in the event the structure falls, additional insurance protection and indemnification have also been required of the applicant. Regarding the location on the site, Cross stated there is an open area to the North of the proposed pole site but the Village owns a 40 ft. wide storm water drainage easement there.

Newman asked about the antennae portion on the pole. Crosby responded that it is 88” tall by 19” diameter and is a solid structure. There will be no light on the pole and the needed equipment and wiring will be contained within the pole.

Adler asked about the insurance. Dubow responded the applicant will be indemnifying the Village and insuring themselves and the Village for four million dollars, the same amount the Village insures itself for.

Next, the Board completed Part II of SEQRA. Responses were as follows: A – No, this action is not a Type I action. B – No, the Planning Board did do a review on the larger scope of the project and this is being reviewed independently. C1 – No. C2 – No. Public utilities are obligated to provide the service and must meet other requirements. C3 – No. C4 – No, Planning Board has given their endorsement. C5 – No. C6 – No. C7 – No. D – No. E – No, as indicated by lack of public comment tonight.

Newman moved the following resolution, second by Gillespie.

**VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION FOR SEQR  
REVIEW OF APPEAL NO. 2006-1 ADOPTED ON MARCH 1, 2006**

**WHEREAS:**

- A. This matter involves consideration of the following proposed action: Appeal No. 2006-1, Omnipoint Communications, Inc., to construct a telecommunications facility for T-Mobile consisting of a 44 foot pole with a 10' x 16' enclosure at its base on property located at 2350 N Triphammer Rd. (current site of the McDonald's restaurant) in the Commercial Low Traffic District, Tax Parcel No. 47.1-1-17.82. The site is designed to provide in-building service coverage to malls and surrounding areas in the Village of Lansing and along Route 13. A variance is required because there is a structure (parking lot and drive lanes) located within the fall zone required by Village of Lansing Code Section 145-60 K

(Village of Lansing Zoning Law) where no structure is permitted under that same section;  
and

- B. This proposed action is an Unlisted Action for which the Village of Lansing Board of Zoning Appeals is an involved agency for the purposes of environmental review; and
- C. On March 1, 2006, the Village of Lansing Board of Zoning Appeals, 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, (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 FOLLOW:**

- 1. The Village of Lansing Board of Zoning Appeals, 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, (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 Board of Zoning Appeals 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: Newman, Gillespie, Wisor, Eckrich and Adler**

**NAYS: none**

The motion was declared to be carried.

The Board then considered the findings for the five criteria for granting and area variance, and possible conditions that might be imposed. After some discussion, Wisor moved the following resolution, seconded by Newman.

**VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION FOR APPEAL  
NO. 2006-1 ADOPTED ON MARCH 1, 2006**

**WHEREAS:**

- A. This matter involves consideration of the following proposed action: Appeal No. 2006-1, Omnipoint Communications, Inc., to construct a telecommunications facility for T-Mobile consisting of a 44 foot pole with a 10' x 16' enclosure at its base on property located at 2350 N Triphammer Rd. (current site of the McDonald's restaurant) in the Commercial Low Traffic District, Tax Parcel No. 47.1-1-17.82. The site is designed to provide in-building service coverage to malls and surrounding areas in the Village of Lansing and along Route 13. A variance is required because there is a structure (parking lot and drive lanes) located within the fall zone required by Village of Lansing Code Section 145-60 K (Village of Lansing Zoning Law) where no structure is permitted under that same section; and
- B. On March 1, 2006, the Village of Lansing Board of Zoning Appeals held a public hearing regarding such action, and thereafter thoroughly reviewed and analyzed (i) the materials and information presented by and on behalf of the applicant(s) in support of this appeal, (ii) all other information and materials rightfully before the Board, and (iii) all issues raised during the public hearing and/or otherwise raised in the course of the Board's deliberations; and
- C. One March 1, 2006, the Village of Lansing Board of Zoning Appeals determined that the proposed action is an Unlisted Action for which the Board is an involved agency, and 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"), the Board (i) thoroughly reviewed the Short Environmental Assessment Form (the "Short EAF"), Part 1, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review, (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), (iii) completed the Short EAF, Part 2; and (iv) made a negative determination of environmental significance ("Negative Declaration") in accordance with SEQR for the above referenced proposed action and determined that an Environmental Impact

Statement would not be required; and

- D. On March 1, 2006, in accordance with Section 712-b of the Village Law of the State of New York and Village of Lansing Code Section 145-74 A(1), the Village of Lansing Board of Zoning Appeals, in the course of its deliberations, took into consideration the benefit to the applicant if the variance(s) is/are granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant;

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOW:**

1. The Village of Lansing Board of Zoning Appeals hereby makes the following findings with respect to the specific criteria for such area variance(s) as set forth in Section 712-b of the Village Law of the State of New York and Village of Lansing Code Section 145-74 A(1):

*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(s).*

**Finding: No, based on the determination of the Planning Board to approve this proposed telecommunication facility, the conditions requiring engineering review and approval of the structure as well as indemnity for the Village, its location in a commercial district, and the concealment or burial of utilities.**

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

**Finding: No, the Planning Board required exhaustive evaluation of alternate sites. Federal regulations require a level of service that necessitates the location of a telecommunication facility on or near this site.**

*Whether the requested area variance(s) is/are substantial.*

**Finding: It is substantial in that it overlaps a structure by one and a half times what is permitted by the Zoning Law, but this has been offset by requirements that the facility be designed to withstand 100 mph sustained winds and that the design be reviewed and approved by the Village Engineer.**

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

**Finding:** Not as pertains to the issues relevant to this variance, and, beyond those issues, they have minimized the impact of the structures through design and landscaping.

*Whether the alleged difficulty was self-created.*

**Finding: Not really, as the location of the structure is dictated by regulatory requirements beyond the control of the applicant.**

2. It is hereby determined by the Village of Lansing Board of Zoning Appeals that the following variance(s) are **GRANTED AND APPROVED** (with conditions, if any, as indicated), it being further determined that such variance(s) are the minimum necessary and adequate to grant relief and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community:

**Description of Variance(s):**

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Omnipoint Communications, Inc. shall be permitted to construct a telecommunications facility for T-Mobile consisting of a 44 foot pole with a 10' x 16' enclosure at its base on property located at 2350 N Tripphammer Rd. (current site of the McDonald's restaurant) in the Commercial Low Traffic District, Tax Parcel No. 47.1-1-17.82. even though there is a structure (parking lot and drive lanes) located within the fall zone required by Section 145-60 (k) of the Village of Lansing Zoning Law where no structure is permitted under that same section.

**Conditions of Variance(s):**

- a. In granting the area variance(s), the Board accepts, endorses and incorporates the conditions attached by the Planning Board in its approval of the Special Permit for this project granted on February 13, 2006, one of which conditions was this Board granting such variance(s).

The vote on the foregoing motion was as follows:

**AYES: Newman, Gillespie, Wisor, Eckrich and Adler**

**NAYS: none**

The motion was declared to be carried.

Kerwin stated that there is a condition set by the Planning Board which they would like to address. Brophy spoke about the condition requiring landscaping and that the underground utility lines would need to go through the Village's drainage easement. Dubow stated this is not the correct Board to address that issue and that the applicants should address their request to the Board of Trustees, possibly with a recommendation from the Planning Board.

### **Appeal No. 2006-2, Pyramid Company of Ithaca**

The second item on the agenda was a Public Hearing for Appeal No. 2006-2, Pyramid Company of Ithaca to construct an approximate 10,600 sf addition to accommodate the relocation and upgrade of the movie theaters in the existing enclosed shopping mall at 40 Catherwood Road in the Commercial High Traffic District, Tax Parcel No. 47.1-1-22. A variance is required because the total height of the proposed structure including roof top mechanical equipment will be approximately 40' where Section 145-43 (E)(8) of the Village of Lansing Zoning Law states that the maximum height is 35'.

Eric Goetzmann of Pyramid Mall Ithaca gave the presentation. Present also were Pyramid Mall Manager Jim Tull and Construction Management Consultant Jim Bold.

Curtis asked about Proof of Mailing. Tull stated that notices had been sent and that he thought the proof of mailing had been delivered to the Village Office. Curtis said he did not recall that they were delivered to the Village Office and could not find them in his file. He suggested that the proceedings continue and if necessary final action could be conditioned on the applicant providing satisfactory proof of mailing. If, for whatever reason, they were unable to do so, the case would have to be readvertised, noticed and heard again.

Goetzmann stated in March 2005, a Special Permit for a 62,000 sf 14 theatre multiplex was approved by the Planning Board. In the course of preparing the construction drawings, however, it was determined that the multiplex could not be built and stay within the 35' height limit in the Village Zoning Law which includes roof top HVAC units in the height calculation. The applicants have gone through numerous design plans but due to the design constraints of a state of the art stadium theatre they can not reduce the height enough to comply. Last night, the Planning Board reviewed additional information documenting the practical design constraints imposed by this sort of facility and the minimal visual impact that would result from the additional height of the roof top units. Based on this additional information the Planning Board gave a unanimous recommendation for this project. Bold explained the potential visual impact of the project using aerial photographs to show the character of the area and other roofs. In terms of perspective, Dicks Sporting Goods and Best Buy have roof-top units which are at almost 35 ft. Other photographs taken from various locations were reviewed. From the entrance near Target, the roof-units are only slightly visible. The new units will be further back and will be more difficult to see. Goetzmann stated the building height is 34 feet and mechanical would be above the 35 ft. limitation. From Oakcrest Road, the 50 ft. parking lot lights are visible. When the



new cinema is built, the parapets will cut off the view of the equipment on the roof due to the angle of the sight line and the location of the equipment back from the edge of the building. From the rear, the residential areas will not see any of the rooftop units because they are much lower than the building increasing the effect of the angle of the sight line. Bold also stated that the total height of the building above grade would be approximately 37 feet, but that is due in part to the building being sunk 4 feet into the ground to help meet the height requirement. The potential locations for mechanicals is limited to the area above the projection space due to sound requirements. Packages have been provided to Board members indicating where the HVAC units would project above the 35 ft. height. The worst case would be 38 feet 2.5 inches above the existing floor of the mall which is approximately 6 inches above average grade. Bold also showed a visual depicting the location of the roof-top units. The equipment is towards the center of the building and 85 ft. from the parapet line. In summary, Bold stated the equipment on the roof would not be visible from any residential area although it would extend above the 35 ft. height limit. Holt stated equipment currently on top of the Mall is more visible now than that on the movie theater will be after it is built. Bold stated the applicants have tried to reduce the height of the structure as much as possible with a thorough review of the design and modifications. Bold stated the mechanical equipment can not be accommodated with the 35 ft. height limit. He feels this is not a substantial variance request as the excess height is less than five feet and can not be seen from most vantage points. Bold stated there will be no adverse effect on the neighborhood as existing equipment has been there for more than twenty years and is more visible then that being proposed. Finally, Bold stated that the variance is self-created as it is resulting from their desire to place a state-of-the-art stadium theater in the mall. Accommodations have been made though to mitigate the height as much as possible. Goetzmann stated although their need for a variance is self-created, it should be noted as well that there have been requests by the public to have such a facility and it will provide a great service to the community.

Eckrich opened the Public Hearing.

As there was no one who wished to speak, Gillespie moved to close the Public Hearing. Seconded by Newman. Ayes by Adler, Eckrich, Gillespie, Newman, and Wisor. Motion carried.

Newman asked about the excavation of the site, noting that the west elevation shows stairs and a ramp. Bold stated the elevation of the interior floor of the mall would all be the same. Newman asked if they had considered going even deeper than the 4 feet.. Bold stated the problem with excavating deeper arises from the need for handicapped exiting at the midlevel of the stadium. Going deeper would require an unworkable ramp design. Newman asked if lifts could be used rather than ramps. Bold stated that due to the number of people for whom handicapped exiting must be provided, a lift would not meet building code requirements

Next, the Board completed Part II of SEQRA. Responses were as follows: A – No. B – No, as it was reviewed independently by the Planning Board. C1 – No, this has been reviewed by the Planning Board. C2 – No. C3 – No. C4 – No, the Planning Board has endorsed this and the change for the overall mall will only be 10,000+ sf. C5 – no. C6 – No. C7 – No. D – No. E – No.

Gillespie moved the following resolution, seconded by Newman:

**VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION FOR SEQR  
REVIEW OF APPEAL NO. 2006-2 ADOPTED ON MARCH 1, 2006**

**WHEREAS:**

- A. This matter involves consideration of the following proposed action: Appeal No. 2006-2, Pyramid Company of Ithaca to construct an approx. 10,600 sf. addition to accommodate the relocation and upgrade of the movie theaters in the existing enclosed shopping mall at 40 Catherwood Road in the Commercial High Traffic District, Tax Parcel No. 47.1-1-22. A variance is required because the total height of the proposed structure including roof top mechanical equipment will be approximately 40' where Village Code Section 145-43 E(8) (Village of Lansing Zoning Law) states that the maximum height is 35'; and
- B. This proposed action is an Unlisted Action for which the Village of Lansing Board of Zoning Appeals is an involved agency for the purposes of environmental review; and
- C. On March 1, 2006, the Village of Lansing Board of Zoning Appeals, 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, (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 FOLLOW:**

- 1. The Village of Lansing Board of Zoning Appeals, 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, (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 Board of Zoning Appeals 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: Newman, Gillespie, Wisor, Eckrich and Adler**

**NAYS: none**

The motion was declared to be carried.

The Board then considered the findings for the five criteria for granting and area variance, and possible conditions that might be imposed. After some discussion, Eckrich moved the following resolution, seconded by Gillespie.

**VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION FOR APPEAL  
NO. 2006-2 ADOPTED ON MARCH 1, 2006**

**WHEREAS:**

- A. This matter involves consideration of the following proposed action: Appeal No. 2006-2, Pyramid Company of Ithaca to construct an approx. 10,600 sf. addition to accommodate the relocation and upgrade of the movie theaters in the existing enclosed shopping mall at 40 Catherwood Road in the Commercial High Traffic District, Tax Parcel No. 47.1-1-22. A variance is required because the total height of the proposed structure including roof top mechanical equipment will be approximately 40' where Village Code Section 145-43 E(8) (Village of Lansing Zoning Law) states that the maximum height is 35'; and
- B. On March 1, 2006, the Village of Lansing Board of Zoning Appeals held a public hearing regarding such action, and thereafter thoroughly reviewed and analyzed (i) the materials and information presented by and on behalf of the applicant(s) in support of this appeal, (ii) all other information and materials rightfully before the Board, and (iii) all issues raised during the public hearing and/or otherwise raised in the course of the Board's deliberations; and

- C. One March 1, 2006, the Village of Lansing Board of Zoning Appeals determined that the proposed action is an Unlisted Action for which the Board is an involved agency, and 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”), the Board (i) thoroughly reviewed the Short Environmental Assessment Form (the “Short EAF”), Part 1, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review, (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), (iii) completed the Short EAF, Part 2; and (iv) made a negative determination of environmental significance (“Negative Declaration”) in accordance with SEQR for the above referenced proposed action and determined that an Environmental Impact Statement would not be required; and
- D. On March 1, 2006, in accordance with Section 712-b of the Village Law of the State of New York and Village of Lansing Code Section 145-74 A(1), the Village of Lansing Board of Zoning Appeals, in the course of its deliberations, took into consideration the benefit to the applicant if the variance(s) is/are granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant;

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOW:**

1. The Village of Lansing Board of Zoning Appeals hereby makes the following findings with respect to the specific criteria for such area variance(s) as set forth in Section 712-b of the Village Law of the State of New York and Village of Lansing Code Section 145-74 A(1):

*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(s).*

**Finding: No, given the sight line for these roof top units they will not be visible or obtrusive from most likely vantage points, and less so than other roof areas of the Mall. Replacing a long vacant space with a new theater will improve the character of the neighborhood.**

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

**Finding: No, due to the constraints of stadium seating design requirements and those of a state of the art movie theater. The applicants have done all that they can within those constraints.**

*Whether the requested area variance(s) is/are substantial.*

**Finding: Not really, not only is the excess height minimal at a few feet, but the sight lines render that excess almost imperceptible from most likely vantage points.**

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

**Finding: No, the sight lines render that excess almost imperceptible from most likely vantage points. Visually this situation is better than the appearance of other roof tops that comply with the height limitation.**

*Whether the alleged difficulty was self-created.*

**Finding: Yes, in that the applicants are proposing to construct a theater which can not comply with the Zoning requirement, but, given the others factors noted above, this is not really significant.**

3. It is hereby determined by the Village of Lansing Board of Zoning Appeals that the following variance(s) are **GRANTED AND APPROVED** (with conditions, if any, as indicated), it being further determined that such variance(s) are the minimum necessary and adequate to grant relief and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community:

**Description of Variance(s):**

- The total height of the proposed structure including roof top mechanical equipment shall be permitted to be not more than 40' where Section 145-43 (E)(8) of the Village of Lansing Zoning Law states that the maximum height is 35'.

**Conditions of Variance(s):**

- a. In granting the area variance(s), the Board accepts, endorses and incorporates the conditions attached by the Planning Board in its approval of the Special Permit for this project granted on March 29, 2005 and its amendment thereof granted on January 31, 2006, the condition of such amendment being this Board granting such variance(s).
- b. Receipt by the Village of proof of mailing of supplementary notice in proper form.

The vote on the foregoing motion was as follows:

**AYES: Newman, Gillespie, Wisor, Eckrich and Adler**

**NAYS: none**

The motion was declared to be carried.

Eckrich thanked Pyramid for their presentation and visuals which were very helpful.

Curtis noted that he had received a 239 determination from County Planning for both this application and the next stating that they have no negative inter-community, or county-wide impacts.

### **Appeal No. 2006-3, Tompkins County Trust**

The third item on the agenda was a Public Hearing for Appeal No. 2006-3, Tompkins Trust Company to permit four signs with a total sign area of 15' on their new ATM island at their branch at 2251 North Triphammer Road, Tax Parcel No. 46.1-6-2.2. A variance is required because the signs will increase the total signage on the property from two signs to six and the total sign area from 50 to 65 sf where Section 115-7 (C) of the Village of Lansing Sign Law limits the number of signs to two and the total sign area to 50 sf.

Curtis confirmed that he had received proof of mailing.

Thomas Hoard of HOLT Architects made the presentation. Also present were Bank Vice President Jim Giordano and Andrew Rappaport from Holt Architects. Hoard stated there were 2 signs before the ATM was installed. When the ATM arrived, there were decal signs on it which identifies it as an ATM. Two signs have wordage and the other two are logos. Hoard stated the property has streets on three sides. Hoard stated the applicants feel it is essential to identify the ATM. Without the signage there would be four large white boxes at the ATM locations. Hoard also stated the signs are not visible from any neighboring residential area. The ATM is also under a canopy and therefore is less visible and not all signs can be seen from any one location. Giordano also noted that the signage is not overpowering and that the lettering is small and intended for those in the drive thru lanes, not for people driving by on public streets.

Eckrich opened the Public Hearing.

As there was no one who wished to speak, Wisor moved to close the Public Hearing. Seconded by Newman. Ayes by Adler, Eckrich, Gillespie, Newman, and Wisor. Motion carried.

Adler asked how the signage came to be on the ATM. Rappaport stated that the construction plans did not show signage on the ATM and they were unaware that there would be signage or logos on it until they were installed. Another department actually orders and manages ATMs and they did not

check with HOLT or Giordano before ordering the ATM. Giordano stated had they known, they would have asked for a variance at the same time they requested a variance for the canopy prior to ordering or installing the equipment.

Eckrich stated the number of signs and the sizes are a concern. The acorn logo takes up 7 sf of signage and that sides face the hotel or neighboring municipality. Eckrich wondered if those two could be considered for elimination. Giordano responded that it could be considered, but that removing them might leave the ATM more unsightly than just leaving them on.

Next, the Board completed Part II of SEQRA. Responses were as follows: A – No. B – No, this is an independent review. C1 – No. C2 – No. C3 – No. C4 – No. C5 – No. C6 – No. C7 – No. D – No. E – No.

Gillespie moved the following resolution, second by Newman:

VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION FOR SEQR  
REVIEW OF APPEAL NO. 2006-3 ADOPTED ON MARCH 1, 2006

**WHEREAS:**

- A. This matter involves consideration of the following proposed action: Appeal No. 2006-3, Tompkins Trust Company to permit four signs with a total sign area of 15' on their new ATM island at their branch at 2251 North Triphammer Road Tax Parcel No. 46.1-6-2.2. A variance is required because the f our signs will increase the total signage on the property from two signs to six and the total sign area from 50 sf to 65 sf where Village of Lansing Code Section 115-7 C (Village of Lansing Sign Law) limits the number of signs to two and the total sign area to 50 sf.; and
- B. This proposed action is an Unlisted Action for which the Village of Lansing Board of Zoning Appeals is an involved agency for the purposes of environmental review; and
- C. On March 1, 2006, the Village of Lansing Board of Zoning Appeals, 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, (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 FOLLOW:**

1. The Village of Lansing Board of Zoning Appeals, 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, (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 Board of Zoning Appeals 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: Newman, Gillespie, Wisor, Eckrich and Adler**

**NAYS: none**

The motion was declared to be carried.

The Board then considered the findings for the five criteria for granting and area variance, and possible conditions that might be imposed. After some discussion, Newman moved the following resolution, seconded by Gillespie:

**VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION FOR APPEAL  
NO. 2006-3 ADOPTED ON MARCH 1, 2006**

**WHEREAS:**

- A. This matter involves consideration of the following proposed action: Appeal No. 2006-3, Tompkins Trust Company to permit four signs with a total sign area of 15’ on their new ATM island at their branch at 2251 North Triphammer Road Tax Parcel No. 46.1-6-2.2. A variance is required because the f our signs will increase the total signage on the



property from two signs to six and the total sign area from 50 sf to 65 sf where Village of Lansing Code Section 115-7 C (Village of Lansing Sign Law) limits the number of signs to two and the total sign area to 50 sf.; and

- B. On March 1, 2006, the Village of Lansing Board of Zoning Appeals held a public hearing regarding such action, and thereafter thoroughly reviewed and analyzed (i) the materials and information presented by and on behalf of the applicant(s) in support of this appeal, (ii) all other information and materials rightfully before the Board, and (iii) all issues raised during the public hearing and/or otherwise raised in the course of the Board's deliberations; and
  
- C. On March 1, 2006, the Village of Lansing Board of Zoning Appeals determined that the proposed action is an Unlisted Action for which the Board is an involved agency, and 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"), the Board (i) thoroughly reviewed the Short Environmental Assessment Form (the "Short EAF"), Part 1, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review, (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), (iii) completed the Short EAF, Part 2; and (iv) made a negative determination of environmental significance ("Negative Declaration") in accordance with SEQR for the above referenced proposed action and determined that an Environmental Impact Statement would not be required; and
  
- D. On March 1, 2006, in accordance with Section 712-b of the Village Law of the State of New York and Village of Lansing Code Section 145-74 A(1), the Village of Lansing Board of Zoning Appeals, in the course of its deliberations, took into consideration the benefit to the applicant if the variance(s) is/are granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOW:

- 1. The Village of Lansing Board of Zoning Appeals hereby makes the following findings with respect to the specific criteria for such area variance(s) as set forth in Section 712-b of the Village Law of the State of New York and Village of Lansing Code Section 145-74 A(1):

*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(s).*

**Finding: No, these are small signs and they have been up for some time**

**and there have been no adverse comments.**

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

**Finding: No, it is important to identify the ATM and there is not really any other way to do it. Given the sequence of events, the issue now is avoiding removing the signs as that may result in a more unsightly result than the signs themselves.**

*Whether the requested area variance(s) is/are substantial.*

**Finding: Yes, in the sense that six signs are requested where only two are permitted and 65sf of sig area where only 50 sf are permitted, but these signs are not obtrusive and only one or two can be seen from any one vantage point, and there has been no negative comments even though they have up for a while.**

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

**Finding: Nothing significant given the size and nature of the signs in question.**

*Whether the alleged difficulty was self-created.*

**Finding: Yes, but it seems to be a case of mismanagement rather than a deliberate infraction, and at this point the remedy could be worse than the signs themselves.**

4. It is hereby determined by the Village of Lansing Board of Zoning Appeals that the following variance(s) are **GRANTED AND APPROVED** (with conditions, if any, as indicated), it being further determined that such variance(s) are the minimum necessary and adequate to grant relief and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community:

**Description of Variance(s):**

-

The specific signs (4 with a total area of 15 sf) for which the variance is requested shall be permitted to remain as they are and sign permits may be issued for each of them.

-  
**Conditions of Variance(s):**

**none**

The vote on the foregoing motion was as follows:

**AYES: Newman, Gillespie, Wisor, Eckrich and Adler**

**NAYS: none**

The motion was declared to be carried.

**Approval of Minutes – October 18, 2005:**

Newman moved to approve the minutes of October 18, 2005. Seconded by Wisor. Ayes by Adler, Eckrich, Newman, Gillespie, and Wisor. Motion carried.

**Adjournment:**

Newman moved to adjourn the meeting at 9:45. Seconded by Wisor. Ayes by Adler, Eckrich, Gillespie, Newman, and Wisor. Motion carried.