

**Village of Lansing  
Board of Zoning Appeals  
July 21, 2015**

1 The meeting of the Village of Lansing Board of Zoning Appeals was convened at 7:05 P.M. by  
2 Chairperson Lynn Leopold. Present at the meeting were Board members, John Wisor, Patrick  
3 Gillespie, Roy Hogben, and Don Eckrich; Code Enforcement Officer Marty Moseley; and  
4 Village Attorney David Dubow; Karl Schuler from Taylor Builds; and Manley Thaler from C.U.  
5 Suites LLC.  
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7 **Public Comment Period:**

8 Leopold opened the public comment period. Leopold introduced herself as the new Chairperson  
9 for the Board of Zoning Appeals. With no one else wishing to speak, Eckrich moved to close  
10 public comment period; seconded by Gillespie; Ayes by Leopold, Gillespie, Eckrich, Wisor and  
11 Hogben  
12

13 **Continuation of Public hearing to consider:**

14 2015-1 CU Suites LLC., to construct a multi-story, approximately 87,515 square feet ,  
15 Mixed Use building, on the West Side of Cinema Drive in between Homewood Suites  
16 LLC and CFCU Community Credit Union, in the Commercial High Traffic District, Tax  
17 Parcel No. 46.1-6-4.2. One or more variances is/are required because (i) the proposed  
18 Mixed Use development does not provide for adequate rear yard parking setback as  
19 required by Section 145-43E.(7)(c) of the Village of Lansing Zoning Law; and (ii) the  
20 proposed Mixed Use Development exceeds the maximum height allowed per Section  
21 145-43E. (8) of the Village of Lansing Zoning Law and is a requested and proposed  
22 amendment to a previously granted height variance that was granted prior hereto.  
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24 Dubow explained the history of the project to date, which can be referenced in the Board of  
25 Zoning Appeals minutes for October 24, 2012 and May 5, 2015. Dubow reviewed the previously  
26 approved variances that have been granted for the project (building height, front yard parking  
27 setback, and buffering requirements adjoining residential areas). Dubow noted that the Board had  
28 left the public hearing open at the May 5 2015 meeting because the short environmental  
29 assessment form was required to be reviewed by the Planning Board, as lead agency, and then re-  
30 submitted to the Board of Zoning Appeals in order to have the application complete. Dubow  
31 noted that the Planning Board has similarly left the special permit public hearing open and will  
32 reconvene on July 28, 2015 for further consideration. Dubow added that the Tompkins County  
33 239 review, by Tompkins County Planning Department, had been amended and a new version  
34 has been provided to the Board based upon updated information, which indicates that there is no  
35 intercommunity or countywide impact because there is now no requested variance for a rear yard  
36 parking setback.  
37

38 Moseley asked for some corrections to the plans on the cover page under the variance section  
39 notes.  
40

41 Schuler indicated that they are still seeking a height variance request to allow for an elevator and

42 stairwell shaft which would provide for handicap access to the proposed roof top gardens for the  
43 residents. Schuler noted that the roof top garden area is a paver type system with raised garden  
44 areas that are movable. Schuler added that there will be HVAC mechanicals and pedestrian  
45 guards on the roof as well, but would remain below the elevator shaft. Schuler indicated that the  
46 roof top gardens would be a nice amenity to the project for the residents of the proposed project.  
47 Schuler noted that the height request is more than what is allowed by Village Code, but there is  
48 other visual blight in the area due to its current unimproved condition.

49  
50 Leopold indicated that this is not a true green roof, where one would be able to account for  
51 stormwater credits. Leopold noted that she liked the idea of the roof top gardens, but would like  
52 to see shade elements incorporated into the project to shade the residents. Leopold noted that she  
53 felt the project height was not appropriate and should be reduced. Leopold added that she felt the  
54 project was a good project and would be a benefit to the area, but it is too tall.

55  
56 Schuler noted that they would not be able to build the project if it had less residential units.  
57 Schuler indicated that they could install some pergolas for shade on the roof with tables and  
58 chairs, which would still be under the requested variance height for the proposed project.

59  
60 The Board asked about finished plans for the aesthetics of the elevator shaft and stairwell shaft  
61 that protrudes from the roof.

62  
63 Schuler noted that a final plan could be submitted at a later time, but the idea is to finish both the  
64 elevator shaft and the stairwell shaft similar to the building aesthetics.

65  
66 Leopold was concerned about setting a precedent if the variance was granted.

67  
68 Hogben noted that he had no concerns because each variance request is evaluated based on the  
69 projects own merits. Hogben noted that he had no concerns with the project as long as the height  
70 variance only allowed for the elevator and stairwell shaft.

71  
72 Gillespie and Eckrich indicated that they agreed with Hogben because there are limited site lines  
73 to the roof top area, and the project would be an improvement to the neighborhood.

74  
75 Leopold asked about the stormwater retention facilities.

76  
77 Schuler explained that the Village engineer has been in contact with their engineers, and the  
78 system is now an open bio-retention filtration basin as opposed to the previously proposed  
79 system.

80  
81 Schuler noted that he has been working with the Village and Manley Thaler, owner of the  
82 property and proposed project. Schuler indicated that permeable pavement would be located on  
83 the CFCU parcel, which would allow for shared parking for this project.

84  
85 Moseley explained that the Planning Board has reviewed the SEQRA (State Environmental  
86 Assessment Quality Review Act) short Environmental Assessment Form and accompanying

87 documentation and determined that the project not having any significant adverse environmental  
88 impacts. This being the case, the short EAF can now be utilized to help answer the five typical  
89 and required questions for an area variance.  
90

91 Dubow noted that the Board has been provided with the previous version of the height variance  
92 resolution in the minutes of October 24, 2012, which resolution may be referenced if necessary.  
93

94 Gillespie moved the following resolution with conditions:  
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96 **VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION ADOPTED**  
97 **ON JULY 21, 2015 FOR APPEAL NO. 2015-1**  
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100 Motion made by: Patrick Gillespie

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102 Motion seconded by: John Wisor  
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104 **WHEREAS:**  
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107 A. This matter involves consideration of the following proposed action: Appeal 2015-3,  
108 CU Suites LLC., to construct a multi-story, approximately 87,515 square feet, Mixed  
109 Use building, on the West Side of Cinema Drive in between Homewood Suites LLC  
110 and CFCU Community Credit Union, in the Commercial High Traffic District, Tax  
111 Parcel No. 46.1-6-4.2. One or more variances is/are required because (i) the proposed  
112 Mixed Use development does not provide for adequate rear yard parking setback as  
113 required by Section 145-43E.(7)(c) of the Village of Lansing Zoning Law; and (ii) the  
114 proposed Mixed Use Development exceeds the maximum height allowed per Section  
115 145-43E. (8) of the Village of Lansing Zoning Law and is a requested and proposed  
116 amendment to a previously granted height variance that was granted prior hereto (the  
117 "2012 Variance Approval"); and  
118

119 B. The applicant having not yet commenced work on the previously approved and  
120 reaffirmed 2012 Special Permit approval and 2012 Variance Approval, the applicant  
121 has requested of the Planning Board of the Village of Lansing and the Board of Zoning  
122 Appeals of the Village of Lansing certain proposed amendments to be made in  
123 accordance with the pertinent Village of Lansing Code/Zoning Law Sections; and  
124

125 C. Application materials related to the currently proposed revised area  
126 variance/amendment action and intended revised special permit review action by the  
127 Village of Lansing Planning Board were presented by the applicant and its engineer for  
128 preliminary review, at which time it was determined that the applicant would need to  
129 seek the proposed Variance action set forth above, and thereupon recommended that  
130 such proposed variance/amendment matter be initially submitted to the Village of  
131 Lansing Board of Zoning Appeals for preliminary further review and consideration

132 prior to any further special permit determination by the Village of Lansing Planning  
133 Board; and  
134

135 D. On May 5, 2015, the Village of Lansing Board of Zoning Appeals held a public hearing  
136 regarding the proposed action, which hearing was kept open for possible further public  
137 participation at a subsequent Board of Zoning Appeals meeting duly noticed to the  
138 public; and  
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140 E. On July 13, 2015, (i) additional review of the proposed Special Permit amendments was  
141 undertaken by the Village of Lansing Planning Board; (ii) updated and additional  
142 SEQR review was completed by the Village of Lansing Planning Board, whereupon it  
143 was determined that the proposed Planning Board amendments would not result in any  
144 negative environment affects and the previous October 12, 2013 Negative Declaration  
145 would continue to be in effect; (iii) a further current public hearing was held, kept open  
146 for possible further public participation at the next regularly scheduled Village of  
147 Lansing Planning Board meeting on July 28, 2015, and then closed; and (iv) it was  
148 acknowledged that the proposed amendments were provided to the County Planning  
149 Department and neighboring municipalities for General Municipal Law Sections 239-l,  
150 m and nn and the Planning Department on July 10, 2015 issued its response letter  
151 determining that the proposed action will not have any negative inter-community or  
152 county-wide impacts; and  
153

154 F. On July 21, 2015, the Village of Lansing Board of Zoning Appeals concurred with the  
155 Village of Lansing Planning Board SEQR review and thereby determined that the  
156 proposed variance would not result in any negative environment affects and the  
157 previous October 12, 2013 Negative Declaration would continue to be in effect; and  
158

159 G. On July 21, 2015, the Village of Lansing Board of Zoning Appeals continued the  
160 previously open public hearing regarding such action, and thereafter thoroughly  
161 reviewed and analyzed (i) the materials and information presented by and on behalf of  
162 the applicant(s) in support of this appeal, (ii) all other information and materials  
163 rightfully before the Board, and (iii) all issues raised during the public hearing and/or  
164 otherwise raised in the course of the Board's deliberations, after which the public  
165 hearing was closed; and  
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167 H. On July 21, 2015, in accordance with Section 712-b of the Village Law of the State of  
168 New York and Village of Lansing Code Sections 115-14 and 145-74 A(1), the Village  
169 of Lansing Board of Zoning Appeals, in the course of its deliberations, took into  
170 consideration the benefit to the applicant if the area variance is granted as weighed  
171 against the detriment to the health, safety and welfare of the neighborhood or  
172 community by such grant;  
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174 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**  
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1. The Village of Lansing Board of Zoning Appeals hereby makes the following findings with respect to the specific criteria for such area variance 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.*

Finding: No, it would not be an undesirable change due to the combination of architecture of the proposed project and the proposed plantings; and the project is found to be aesthetically pleasing. The proposed building would not be the only large structure in the immediate vicinity, and the elevator shaft is necessary for handicap accessibility to the roof top gardens. The overall project would enhance the aesthetics of the area.

*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, it could not be accomplished by other means because by having a roof top garden the New York State Building Code requires all individuals to be able to have access to the amenity.

*Whether the requested area variance is substantial.*

Finding: Yes, it is somewhat substantial, but the proposed project will not block a desired view, and with the design and architecture of the proposed project and the landscaping to be implemented based upon the special permit approval of the Planning Board, it would not only compliment other structures in the immediate vicinity, but also provide a more aesthetically pleasing view. Also, due to the topography of the parcel, the major increased height will be at the rear of the building facing the Triphammer Marketplace property.

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

Finding: No, the proposed project would be an improvement to the currently undeveloped lot with the coordinated stormwater facilities to be required; and

221 the developed property as lighted and landscaped (as approved by the  
222 Planning Board) will result in a safer property integrated into this area of the  
223 Village. The proposed project will improve the existing aesthetics of the lot,  
224 as the undeveloped lot is currently seen as a blight to the neighborhood.  
225

226  
227 *Whether the alleged difficulty was self-created.*  
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229 Finding: Yes, the proposed project would not comply with the current Village  
230 Zoning, but due to the aesthetics of the proposed project and its anticipated  
231 benefits, it would provide for a more visually pleasing view and would  
232 provide a safer and compatible addition to the surrounding area. The project  
233 was previously approved to exceed the Villages maximum height restrictions  
234 and this proposed change would only increase the overall maximum height of  
235 the structure by seven feet.  
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- 237  
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239 2. It is hereby determined by the Village of Lansing Board of Zoning Appeals that the  
240 following variance is **GRANTED AND APPROVED** (with conditions, if any, as  
241 indicated), it being further determined that such variance is the minimum necessary  
242 and adequate to grant relief and at the same time preserve and protect the character of  
243 the neighborhood and the health, safety and welfare of the community:  
244

245 **Description of Variance:**

246 The variance granted is to increase the maximum height of this proposed project  
247 to a maximum height of not to exceed sixty two (62) feet as designated in the  
248 submitted plans to allow for residents of the building to access roof top gardens,  
249 which is measured from the top of the roof top elevator shaft to the lowest point  
250 of finished grade; the result being an approximately fifty (50) foot height in the  
251 front area with multiple stories of senior apartments, and an approximately sixty  
252 two (62) foot height in the rear area with multiple stories (including the  
253 underground parking). The project includes 4 stories of senior housing, with two  
254 commercial components, underground parking, and roof top garden access for  
255 residents to utilize.  
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258 **Conditions of Variance:**  
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- 260 a. The aesthetics of the roof top elevator and stairwell shaft shall be of the same  
261 nature as the rest of the proposed project and shall be consistent in building  
262 materials as provided with the proposed project. The aesthetics of the roof top  
263 elevator and stairwell shaft shall be submitted to and approved by the  
264 Planning Board.

265                   b. Shade areas shall be provided on the roof for the residents to utilize, and shall  
266                   be approved by the Planning Board.  
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269 The vote on the foregoing motion was as follows:  
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271 AYES: Don Eckrich, Patrick Gillespie, Roy Hogben, and John Wisor  
272

273 NAYS: Lynn Leopold  
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275 The motion was declared to be carried.  
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278 **Approval of Minutes:**  
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280 Eckrich moved to accept the October 24, 2012 minutes as amended. Seconded by Wisor. Ayes  
281 by Eckrich, Wisor, and Hogben. Abstention by Leopold and Gillespie.  
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283 Hogben moved to accept the February 26, 2013 minutes as amended. Seconded by Gillespie.  
284 Ayes by, Gillespie, Eckrich, Wisor and Hogben. Abstention by Leopold.  
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286 Hogben moved to accept the May 22, 2013 minutes as amended. Seconded by Wisor. Ayes by  
287 Hogben, Wisor and Eckrich. Abstention by Gillespie and Leopold.  
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289 Wisor moved to accept the May 5, 2015 minutes as amended. Seconded by Gillespie. Ayes by  
290 Eckrich, Gillespie, Hogben, and Wisor. Abstention by Leopold.  
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293 **Adjournment:**  
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295 Gillespie moved to adjourn at 8:09 PM. Seconded by Eckrich; Ayes by Leopold, Gillespie,  
296 Eckrich, Wisor and Hogben.