

**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.

6
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.

23
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:
95

96 **VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION ADOPTED**
97 **ON JULY 21, 2015 FOR APPEAL NO. 2015-1**
98

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100 Motion made by: Patrick Gillespie

101
102 Motion seconded by: John Wisor
103

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
139

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
166

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;
173

174 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**
175

- 176 1. The Village of Lansing Board of Zoning Appeals hereby makes the following
177 findings with respect to the specific criteria for such area variance as set forth in
178 Section 712-b of the Village Law of the State of New York and Village of Lansing
179 Code Section 145-74 A(1):
180

181 *Whether an undesirable change will be produced in the character of the*
182 *neighborhood or detriment to nearby properties will be created by granting the*
183 *area variance.*
184

185 Finding: No, it would not be an undesirable change due to the combination of
186 architecture of the proposed project and the proposed plantings; and the
187 project is found to be aesthetically pleasing. The proposed building would not
188 be the only large structure in the immediate vicinity, and the elevator shaft is
189 necessary for handicap accessibility to the roof top gardens. The overall
190 project would enhance the aesthetics of the area.
191

192
193
194 *Whether the benefit sought by the applicant can be achieved by some method*
195 *feasible for the applicant to pursue other than an area variance.*
196

197 Finding: No, it could not be accomplished by other means because by having
198 a roof top garden the New York State Building Code requires all individuals
199 to be able to have access to the amenity.
200

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202
203 *Whether the requested area variance is substantial.*
204

205 Finding: Yes, it is somewhat substantial, but the proposed project will not
206 block a desired view, and with the design and architecture of the proposed
207 project and the landscaping to be implemented based upon the special permit
208 approval of the Planning Board, it would not only compliment other structures
209 in the immediate vicinity, but also provide a more aesthetically pleasing view.
210 Also, due to the topography of the parcel, the major increased height will be at
211 the rear of the building facing the Triphammer Marketplace property.
212

213
214
215
216 *Whether the proposed area variance will have an adverse effect or impact on the*
217 *physical or environmental conditions in the neighborhood or district.*
218

219 Finding: No, the proposed project would be an improvement to the currently
220 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.*
228

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.
236

- 237
238
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.
256

257
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.
267

268
269 The vote on the foregoing motion was as follows:
270

271 AYES: Don Eckrich, Patrick Gillespie, Roy Hogben, and John Wisor
272

273 NAYS: Lynn Leopold
274

275 The motion was declared to be carried.
276
277

278 **Approval of Minutes:**
279

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.
282

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.
285

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.
288

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.
291
292

293 **Adjournment:**
294

295 Gillespie moved to adjourn at 8:09 PM. Seconded by Eckrich; Ayes by Leopold, Gillespie,
296 Eckrich, Wisor and Hogben.