

PLANNING BOARD MEETING

The City of Newburgh Planning Board meeting was held on Tuesday, August 15, 2017 in the Activity Center, 401 Washington Street, Newburgh, NY 12550

Members Present: Lisa Daily
Lillian Burgarelli
Heather Moore (Alternate)
Kent Diebolt (Alternate)

Members Excused: Ramona Monteverde
Argelia Morales
Duane Ware
Alicia Ware

Also Present: Jason Morris, City Engineer
Alexandra Church, City Planner
Jeremy Kaufman, Assistant Corporation Counsel
Omar E. Balbuena-Palma, Land Use Board Secretary

The meeting was called at 7:35 p.m. after a quorum was confirmed.

APPROVAL OF MINUTES

Kent Diebolt moved, and Heather Moore seconded, the motion to approve the minutes of the July Board meeting.

The motion passed 4-0.

PUBLIC HEARING

INDEX NO. 2017-17 SPECIAL USE and SITE PLAN to create a child day-care center.

Location: 310 Fullerton Avenue

Owner/ Applicant: Iglesia De Dios Fuente De Vida Eterna, Inc. / Brenda Reyes

The Informational Inspection Report of the Building Inspector and the comment letters of the City Engineer, City Planner and the Orange County Department of Health were made a matter of record.

DISCUSSION BY THE BOARD

Applicant did not appear.

The Chairperson continued the public hearing, which was opened in the July meeting. There was no one present to speak for or against this application.

Kent Diebolt moved, and Heather Moore seconded, the motion to close the public hearing. The motion passed 4-0.

The City Planner said she has no outstanding comments.

The City Engineer said he has no outstanding comments.

Lillian Burgarelli moved to issue a Negative Declaration pursuant to SEQRA. Heather Moore seconded the motion. The motion passed 4-0.

The Assistant Corporation Counsel said the New York State Office of Children and Family Services has not issued a response letter with any type of guidance or comment on the application. He said the Board could make a second request of that office, or vote on the application.

Ms. Burgarelli was concerned about the parking availability. The City Planner said the existing parking lot is shared with the Church and is not an issue because the church and the day care would operate at different times. The City Engineer said the shared parking lot has not been modified by the Site Plan approval at 304 Fullerton Avenue and that those modifications are required prior to the issuance of any Certificate of Occupancy.

Ms. Daily said she is in favor of approving the Site Plan and the Special Use Permit under the condition that the NYS Office of Family Services approves the application.

Lillian Burgarelli moved to approve the Site Plan as submitted. Heather Moore seconded the motion. The motion passed unanimously via roll call vote.

Heather Moore moved to approve the Special Use Permit for 6 months under the condition that the application is also approved by the New York State Office of Children and Family Services. Mr. Diebolt seconded the motion. The motion passed unanimously via roll call vote.

INDEX NO. 2017-18 SUBDIVISION to divide 18 existing tax parcels to 36 lots.
Location: Along Morris Ave. between Hawthorne Ave. and Orchard St.
Owner/ Applicant: Ionic Properties, LLC / Dimitri Zahariadis

The comment letters of the City Engineer, City Planner and the Orange County Department of Health were made a matter of record.

DISCUSSION BY THE BOARD

The applicant did not appear at the meeting.

The Chairperson continued the public hearing, which was opened in the July meeting. There was no one present to speak for or against this application.

The Assistant Corporation Counsel said the Applicant requested to keep the public hearing open until the next meeting.

The City Engineer said DEC determined they would accept the new subdivision with the existing storm water facilities in place with the addition of additional run-off practices. However, the Applicant would need to submit a modified Site Plan in accordance with DEC conditions. Until the Applicant submits the modifications, he recommended keeping the hearing open.

The Board held open the public hearing and the application until the next meeting.

INDEX NO. 2017-21 SPECIAL USE PERMIT to operate as an Automobile Service & Repair facility.
Location: 46 William Street
Owner/ Applicant: Jaber Nidal / Wendell Jackson

The Informational Inspection Report of the Building Inspector and the comment letters of the City Planner were made a matter of record.

DISCUSSION BY THE BOARD

Wendell Jackson appeared before the Board. The Applicant gave a brief overview of his project and highlighted the following:

- The use is for Automobile Service and Repair but no engine or heavy duty automobile work will be done on-site.
- The work will be mostly electrical services and include installing auto sounds, car appliances, window tinting, auto glass repair and graphic designs.
- He will operate a retail section within the building for car merchandise.
- Half of the block is commercial property and there is only one residential building on the block.

Lillian Burgarelli moved to open the public hearing.

Heather Moore seconded the motion.

The motion passed 4-0.

There was no one present to speak for or against this application.

Kent Diebolt moved to close the public hearing.

Heather Moore seconded the motion.

The motion passed 4-0.

The City Engineer confirmed with the Applicant that there would be no exterior modifications and recommended waiving the Site Plan requirements.

The City Planner said the updated EAF she received is satisfactory.

Lillian Burgarelli moved to declare Lead Agency pursuant to SEQRA.

Kent Diebolt seconded the motion.

The motion passed 4-0.

Ms. Burgarelli was concerned about the potential noise impact on the residential building and the parking availability. The Applicant said that noise levels would not be an issue because the building is three storefronts away with three layers of brick in between and there are seven parking spaces available inside 46 William Street.

Heather Moore moved to issue a Negative Declaration pursuant to SEQRA.

Lillian Burgarelli seconded the motion.

The motion passed 4-0.

Lillian Burgarelli moved to waive the Site Plan requirements under the City Code.

Heather Moore seconded the motion.

The motion passed unanimously via roll call vote.

The Assistant Corporation Counsel suggested the following four conditions for a 6-month special use permit.

1. No auto work may be performed outside of the building.
2. No cars may be stored overnight on the premises.
3. The Applicant may not sublease or rent for use any portions of the premises where he operates his business.
4. The Applicant must notify the Building Department if he subleases any portions of the premises where he does not operate his business within 30 days of a prospective tenant taking possession of a portion of the premises.

The Applicant said that a 6-month permit might hinder his ability to acquire DMV permits. The Applicant was informed to return with a letter from the DMV if he was denied a DMV permit based upon the 6-month grant.

Lillian Burgarelli made a motion to approve the Special Use Permit for 6-months under the following conditions:

1. No auto work may be performed outside of the building.
2. No cars may be stored overnight on the premises.
3. The Applicant may not sublease or rent for use any portions of the premises where he operates his business.
4. The Applicant must notify the Building Department if he subleases any portions of the premises where he does not operate his business within 30 days of a prospective tenant taking possession of a portion of the premises.
5. The Applicant shall comply with the comment letters by City Staff.
6. The Applicant shall receive the appropriate variances from the ZBA.

Kent Diebolt seconded the motion.

The motion passed unanimously via roll call vote.

The Applicant was informed to attend the next ZBA meeting on August 22, 2017.

NEW BUSINESS

INDEX NO. 2017-19 SITE PLAN to convert the building into a pizzeria.

Location: 50 Mill Street

Owner/ Applicant: Raymond Lachance & Gisila Lachance / Francisco Martinez

The Informational Inspection Report of the Building Inspector and the comment letters of the City Engineer and the City Planner were made a matter of record.

DISCUSSION BY THE BOARD

Francisco Martinez, Applicant, and Michael Henderson, from Hennessy Architects, appeared before the Board. The Applicant gave a brief overview of the project and said the intent is to change the use of the vacant building from an Auto Accessory Store to a Restaurant (pizzeria).

The Applicant said there are currently four parking spots available on-site and there are no proposed exterior changes other than a sign modification. There will be interior work. The Applicant said he is leasing the property from the owner and received ZBA approval prior to attending the Planning Board meeting.

Ms. Burgarelli confirmed that the business would close at 10:00 p.m. and there would be no eating outside. The lighting on the exterior would include the existing two light fixtures on the wall and the street lamps.

The City Planner submitted her latest comment letter for the record. She said a few revisions are required on the EAF as per comment number 2 & 3 of her comment letter. The Applicant confirmed he had no knowledge of the contraband spill affecting the property.

The City Engineer submitted his latest comment letter for the record. He confirmed with the Applicant that they would reuse the existing water and sewer connections and said he has no knowledge of any underground contamination on the property. He recommended waiving the Site Plan requirements and/or approving the Site Plan as submitted.

Kent Diebolt moved to waive the public hearing.

Heather Moore seconded the motion.

The motion passed 4-0.

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Lillian Burgarelli moved to declare Lead Agency pursuant to SEQRA.

Heather Moore seconded the motion.

The motion passed 4-0.

Heather Moore moved to issue a Negative Declaration pursuant to SEQRA.

Kent Diebolt seconded the motion.

The motion passed 4-0.

Kent Diebolt moved to approve the Site Plan application as submitted.

Heather Moore seconded the motion.

The motion passed unanimously via roll call vote.

INDEX NO. 2017-23 SITE PLAN to convert a computer retail store into a restaurant and bar.

Location: 603 Broadway

Owner/ Applicant: Aladesanmi Anjorin / Sulma E. Fernandez

The Informational Inspection Report of the Building Inspector and the comment letters of the City Planner were made a matter of record.

DISCUSSION BY THE BOARD

Sulma E. Fernandez, Applicant, appeared. The Applicant gave a brief overview of the project and said there will be no exterior changes to the property. The Applicant said that the Bar will not have cooking on-site and the project has been revised to be treated as a Bar and not a Restaurant.

Ms. Burgarelli was concerned about the parking availability. The Applicant said there are only 2 parking spaces on-site but plenty of off-street parking spaces. The applicant submitted a parking variance application to the ZBA.

The City Planner submitted her latest comment letter for the record. She said that the Zoning Enforcement Officer revised the Informational Report to reflect the new parking requirements as shown on her letter. She said 7 off-street parking spaces are now required and that the majority of her comments concern the properties location within the 100 year floodplain in the WPO District. She said the Planning Board has to consider whether the mitigations required in the WPO and/or suggested by the CAC are enough to mitigate any potential environmental impacts. She said the Planning Board members should review §175 and that the Applicant should not have any quests during a storm as the property is known to flood and may require a Floodplain Development Permit.

The City Engineer said because of the properties location within the WPO District, the Site Plan requirements cannot be waived and require a review by the CAC. The City Engineer said he has no further comments.

The Assistant Corporation Counsel said that no action can be taken by the Planning Board, as the CAC has 30 days to submit a comment letter. He said the Applicant needs to attend the ZBA meeting for 5 parking spaces and the Board members can wait for the CAC comment letter before providing guidance to the Applicant or offer some general advice to the Applicant. He said the Applicant will have to submit some form of a Site Plan.

The Board informed the Applicant that the property is known to flood and advised her to speak to the Zoning Enforcement Officer and decide if she would like to continue the application in light of this information.

Ms. Moore confirmed that the future use of the building will include a restaurant and the Applicant was informed that she will have to return to change the use.

The Applicant was informed to submit a Site Plan, attend the ZBA meeting on August 22, 2017 and to return for the September meeting.

INDEX NO. 2017-24 **SITE PLAN** to renovate the building and create a mixed use with a residential unit on the second and third floor and a commercial unit on the ground floor.

Location: 36 Liberty Street

Owner/ Applicant: 36 Liberty St., LLC / Shay Sellars

The Informational Inspection Report of the Building Inspector and the comment letters of the City Planner were made a matter of record.

DISCUSSION BY THE BOARD

Shay Sellars appeared before the Board. She said the previous owner changed the use of the building into a 2-unit property and now she intends to change the use into a mixed use with residential units on the second and third floor and a commercial unit on the ground floor.

The City Engineer confirmed that the only changes to the building will be window replacements and a tree removal on the backyard to create an exit from the building. He recommended waiving the Site Plan based upon those representations and the previous materials submitted.

The Applicant said that she submitted documents to clarify the record of ownership as 36 Liberty St., LLC.

The City Planner submitted her latest comment letter for the record. She said that the properties location on the EAF map triggered FEAF Question E.2 (0) and FEAF Question E.3 (f) but because there are no exterior modifications, no further clarification is required. The Applicant confirmed there will be no exterior changes to the property.

Lillian Burgarelli moved to waive the public hearing.

Lisa Daily seconded the motion.

The motion passed 4-0.

Heather Moore moved to declare Lead Agency pursuant to SEQRA.

Lillian Burgarelli seconded the motion.

The motion passed 4-0.

Kent Diebolt moved to issue a Negative Declaration pursuant to SEQRA.

Heather Moore seconded the motion.

The motion passed 4-0.

Heather Moore moved to waive the Site Plan requirements under the City Code.

Kent Diebolt seconded the motion.

The motion passed unanimously via roll call vote.

Kent Diebolt moved to approve the application as submitted.

Heather Moore seconded the motion.

The motion passed unanimously via roll call vote.

OLD BUSINESS

INDEX NO. 2017-20 SITE PLAN to create a mixed use building with residential apartments on the 2nd and 3rd floor and a fast food restaurant on the 1st floor.

Location: 216 Broadway

Owner/ Applicant: Rafiq Majeed / Coppola Associates

The Informational Inspection Report of the Building Inspector and the comment letter of the City Planner were made a matter of record.

DISCUSSION BY THE BOARD

Rafiq Majeed, property owner, appeared before the Board. He gave a brief overview of the plan to renovate the building for mixed use. He said the building is currently vacant.

Ms. Moore confirmed that there are no parking requirements in the Broadway Corridor District.

The City Engineer confirmed with the Applicant that there are no exterior changes and recommended waiving the Site Plan requirements based upon the applicant's representations and submissions.

The City Planner said she has no outstanding comments.

Lillian Burgarelli moved to declare Lead Agency pursuant to SEQRA.

Heather Moore seconded the motion.

The motion passed 4-0.

Heather Moore moved to issue a Negative Declaration pursuant to SEQRA.

Lillian Burgarelli seconded the motion.

The motion passed 4-0.

Kent Diebolt moved to waive the Site Plan requirements under the City Code.

Lillian Burgarelli seconded the motion.

The motion passed unanimously via roll call vote.

Lillian Burgarelli moved to approve the application as submitted.

Heather Moore seconded the motion.

The motion passed unanimously via roll call vote.

SPECIAL USE PERMIT DISCUSSION

With no further business to discuss, the meeting was adjourned at 8:58 p.m.

Respectfully submitted,

Omar E. Balbuena-Palma,
Secretary to the Land Use Boards