CITY OF NEWBURGH
PLANNING BOARD
Lisa Daily, Chairperson
Omar E. Balbuena-Palma, Secretary
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PLANNING BOARD MEETING

The City of Newburgh Planning Board held its monthly meeting on
Tuesday, October 20, 2020 using Zoom videoconference.

Members Present: Lisa Daily, Chairperson
Sarah Hooff
Michael Kelly
Heather Moore
Richard Rosencrans
Alicia Ware
Duane Ware

Also Present: Elka Gotfryd, City Planner
Chad Wade, Assistant City Engineer
Jeremy Kaufman, Assistant Corporation Counsel
Omar Balbuena-Palma, Secretary

The Chairperson called the meeting to order at 7:30 p.m. after confirming a quorum.

APPROVAL OF MINUTES

Mr. Ware moved to approve the minutes of the September 2020 board meeting.
Ms. Moore seconded the motion.
The motion passed unanimously via roll-call vote.

PUBLIC HEARING

Index No. 2020-09

Applicant: 104 Washington St., LLC
Owner: Newburgh Community Land Bank Inc.
Location: 104 Washington Street

SITE PLAN Application to convert the existing Vacant building into a mixed-use development (Mixed-Use with Residential).

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

DISCUSSION BY THE BOARD

Philippe Pierre, Applicant, along with Aryeh Siegel, Project Architect from ASA (Aryeh Siegel Architect), Michael Bodendorf, Land Use Engineer from Hudson Land Design, and Charley Huebner from Mistral Construction, LLC, all appeared on behalf of the property owner.

The Applicant gave a brief review of the project. He said the intent is to construct a new six-story mixed use building at 104 Washington Street with a commercial ground floor and residential apartments above. He said the City received a grant designed to increase the number of micro apartments available and he is capitalizing on the incentive by incorporating micro apartments into the development. He said the project obtained the necessary Area Variances from the Zoning Board of Appeals ("ZBA") on September 22 and they are now requesting Site Plan approval by the Planning Board.

The City Planner asked if the Applicant obtained clarification for the proposed work from the State Historic Preservation Office ("SHPO") and the DEC.

The Land Use Engineer said they contacted SHPO and the DEC and are awaiting clarification.

The Assistant City Engineer reviewed his comment letter for the benefit of the Board and the Applicant. He said the Applicant should revise the plan and prepare a partial Storm Water Sewer Pollution and Prevention Plan for submission.

The Land Use Engineer said he would review the Engineer's comment letter and modify the plan accordingly.

The Chairperson opened the public hearing.

Hannah Anderson, manager of Atlas Industries at 11 Spring Street, said she is happy to see new development in Newburgh but she is concerned about setting a precedent for future development. She said the proposed renderings/elevations are not consistent, specifically the balconies.

The Chairperson clarified that the ZBA is tasked with approving any Area Variances requested by the Applicant and that no parking spaces will be reserved for the Applicant.

Naomi Hersson-Ringskog, 185 Liberty Street, said she agrees with the comments made by Ms. Anderson.

Gita Nandan, business owner at 105 Ann Street, said she submitted a comment letter for consideration earlier. The letter was made part of the record.

Thomas Wright, business owner of Atlas Industries at 11 Spring Street, said the building is too big. He said it is twice as big as the building at 11 Spring Street and it would dwarf the neighborhood buildings.

Joseph Fratesi, business partner of Atlas Industries at 11 Spring Street, said he is in support of the aforementioned comments. He said he is concerned about setting a precedent and there are problems with the development that need to be addressed before any approval is given.

Ms. Ware moved to close the public hearing.
Ms. Moore seconded the motion.

The Board discussed the motion to close the public hearing.

Mr. Ware said many of the comments by the public are not under the purview of the Planning Board and he has no objections to closing the public hearing.

Mr. Rosencrans acknowledged the public sentiment and said he is not aware of the public hearing requirements. He said the public hearing requirements are not sufficient because the public always claim after the fact that they never knew about the project and always request additional time for review. He said the Board should reconsider closing the public hearing because there has only been one attempt at a public hearing. He said there might be other individuals who could not attend last month's public hearing and this month's public hearing. He said the community have more time for this project due to its scope/location.

Ms. Moore said she agrees with Mr. Rosencrans.

The Assistant Corporation Counsel said the public hearing requirements are found in §300-90 of the City Code. He said whether the Board members agree/disagree with the existing requirements may be up for future discussion about Code revision, but the current methods of giving notice are in the Code. He said all of the public hearing requirements appear to have been satisfied. He said the other Land Use Boards involved in reviewing the project also have held public hearings for their respective meetings. He asked the Secretary if he received notice from any members of the public regarding an inability to attend this meeting or a desire to comment at a future meeting.

The Secretary confirmed that he received no additional comments from the public regarding an inability to attend or a desire to comment at a future meeting. He said the individuals who contacted him via e-mail are present.

The Chairperson clarified that the ZBA also held a public hearing in September.

Mr. Rosencrans asked if nobody reads the newspaper and nobody visits the City website, how the public receives information on the project.

The Chairperson clarified that nearby property owners within 500 feet of the subject property are mailed notices of the hearing.

Mr. Rosencrans said it appears the majority of the nearby property owners do not care about the project. He said the overall consensus from the public tonight indicates they would like additional time.

Ms. Moore said the public indicated a need for additional time and they were consistent in their comments towards the project. She asked what advantage the Board would have if the Board kept the public hearing open. She asked if there was a precedent on holding public hearings open.

The Assistant Corporation Counsel said the determination to hold the public hearing open lies exclusively with the Board. He said City Staff's obligation is to ensure the Board the public hearing is duly noticed.

The City Planner said City Staff recommended a coordinated review and it seems the public hearing comments indicate further discussion across the Land Use Boards with respect to SEQRA needs to be done. She said the public hearing should be left open due to a lack of coordination between the Land Use Boards.

The Assistant Corporation Counsel there is no evidence of a lack of coordination for SEQRA purposes. He said the SEQRA review process with respect to coordination is not relevant to whether a public hearing should kept open. He said SEQRA requires a Lead Agency for environmental review purposes. He said in this instance, the Land Use Boards all received notice that the Planning Board declared its intent to be Lead Agency for purposes of environmental considerations. The ZBA and ARC voted at their respective meetings to defer to the Planning Board to be Lead Agency for this application. He said at tonight's meeting, the Planning Board may vote to declare itself Lead Agency. He said what the Planning Board cannot do however, is vote on the environmental impact of the project because there are outstanding environmental issues, as mentioned in the comment letters, which need to be addressed. He said those issues are not related to whether the public hearing stays open. He clarified the Board may consider the public hearing comments in their consideration of an eventual SEQRA vote and Site Plan vote. He said City Staff will not comment on whether the public hearing should remain open or closed because that decision rests solely with the Board.

Ms. Hooff asked if the ZBA approved the required Area Variances.

The Assistant Corporation Counsel confirmed the ZBA approved the requested Area Variances for the project at the ZBA's September meeting. He said the application also requires approval by the Architectural Review Commission ("ARC") in addition to Site Plan approval.

Ms. Hooff said the public comments revolve around the height/mass of the building, the off-street parking availability and the setback of the building. She said she is struggling to address those concerns substantively as a member of the Planning Board when a six-story building is allowed in the zone and the project has obtained the necessary Area Variances.

The Chairperson said the purview of the Planning Board is defined in the Zoning Code and the Board must not step outside those parameters.

Ms. Hooff said she hears the comments and is interested in a discussion but is concerned about the utility of extending the public hearing.

Mr. Ware said Ms. Hooff brought up good points and the Planning Board is not in a position to overrule the decision of the ZBA or what is allowed in the Zoning Code.

The City Planner said one question in the EAF asks if the proposed action is consistent with the predominant character of the existing build or natural landscape and this is a channel from SEQRA, and that comment supports a broader discussion by the Board to extend the public hearing.

The Chairperson said extending would not enlighten the Board to additional concerns they are not aware of already. She said the Board is not ready to make any decisions and they still have to discuss the project.

The Chairperson said there is an existing motion to close the public hearing and asked the Secretary to call the roll.

The public hearing was closed 6-1 via roll-call vote (Mr. Rosencrans voted against).

Ms. Hooff moved to declare the Planning Board Lead Agency pursuant to SEQRA.
Ms. Ware seconded the motion.
The motion passed unanimously via roll-call vote.

Ms. Moore asked if the Applicant wanted to respond to any comments raised by the public.

The Applicant said he would like to thank the public for their input and said he understands some of the concern. He said these issues came up as they tried to put together a project to respond to the City's desire to increase density in the Historic District, economic activity, and demand drivers to local businesses. He said the project will set a precedent, which is that ground up development in Newburgh is possible He said the project will impact a lot of people, ultimately, for the better and it will spur new development in Newburgh. He said the building is big but it meets the Zoning Code requirements, the same Zoning Code that and took a huge effort from Newburgh to adopt several years ago.

Mr. Kelly asked for a clarification on the proposed balconies.

The Applicant said the renderings are made to show the general concept of the building that is made out of brick, Corten steel and glass. He said the renderings are very expensive to make and the floor layout may change but they will have balconies on both sides.

The application was tabled and the Applicant was informed to submit a revised site plan and attend the following Planning Board meeting.

NEW BUSINESS

Index No. 2020-10

Applicant: John C Lantis II & Mary Elin Carnes
Owner: John C Lantis II & Mary Elin Carnes
Location: 5 & 7 Central Avenue

SUBDIVISION application to move a lot line between 5 and 7 Central Avenue.

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

DISCUSSION BY THE BOARD

Mary Elin Korchinsky-Carnes, property owner of 7 Central Avenue, and Jane Royal, representing the property owner at 5 Central Avenue by proxy, appeared before the Board along with Deirdre Glenn.

Ms. Royal said the driveway at 7 Central Avenue overlaps the property line at 5 Central Avenue. The intent is to move the lot line to legalize the entirety of the driveway onto 7 Central Avenue. She said the request would legalize a pre-existing gentlemen's agreement between the property owners at 5 & 7 Central Avenue that was made approximately 37 years ago. She said they are looking to sell the property since they cannot stay in Newburgh but they would like to legalize the lot lines before they leave.

The City Planner said the Planning Department has no major comments on the application. She said the project requires GML §239 review.

The Assistant City Engineer said there are no major comments on the application. He said the project will require an Area Variance from the ZBA and the plot plan needs to be updated to include the appeal number.

Ms. Royal said the Informational Report incorrectly identifies the driveway at 5 Central Avenue when it should refer to the driveway at 7 Central Avenue. She said the property is an existing non-conforming lot with a variance and an additional two feet should not be a huge concern since the building was constructed around 1910.

The Chairperson said the Informational Report will be revised accordingly.

The Assistant Corporation Counsel asked for a clarification on the variance mentioned by the Applicant.

Ms. Glenn said she is not aware of any variance issued to the properties at 5 or 7 Central Avenue. She said both lots meet the zoning requirements but because the building was constructed in 1910 it predates the existing Zoning Code and the building does not conform to the setbacks.

The Assistant Corporation Counsel said the existing building would be a a pre-existing non-conforming structure. He said the proposed modification triggers compliance with the existing zoning code and a variance for the side yard setback from the ZBA is required in order for the project to move forward. He said the application is considered a Minor Subdivision for Planning Board purposes and the Applicant may refer to the Planning Board process in Chapter 266 of the City Code. He said the Board must schedule a public hearing and discuss whether or not it wants to refer the application to the Orange County Department of Planning for additional review, separate from GML §239 review.

Ms. Moore moved to schedule a public hearing at the November Planning Board meeting.
Ms. Ware seconded the motion.
The motion passed unanimously via roll-call vote.

Mr. Rosencrans moved to waive the preliminary plat referral to the Orange County Planning Board for additional review.
Mr. Ware seconded the motion.
The motion passed unanimously via roll-call vote.

The Applicant was informed to contact the Secretary to meet the public hearing requirements and submit a revised plat in order to attend the next Planning Board meeting on November 17.

<u>Index No. 2020-11</u>

Applicant: Peak Summit Enterprises
Owner: William Sarvis & Anna R. Sarvis
Location: 13 North Plank Road

SUBDIVISION & SITE PLAN application to subdivide the land into two separate building lots, for a Single Family home on each lot.

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

DISCUSSION BY THE BOARD

Ken Lytle, Applicant, appeared before the Board on behalf of the property owner.

The Applicant gave a brief overview of the application and highlighted the following:

- Proposal to subdivide the vacant land at 13 North Plank Road and construct single-family dwellings on each lot;
- New York State Department of Transportation ("NYSDOT") acquired part of the frontage at 13 North Plank Road in 1984;
    - NYSDOT provided a curb cut and sidewalk, as well as a driveway pipe, for the owner's use for a future driveway to the property.
- ZBA approved an Area Variance on September 22 to resolve the subdivision issue;

- Requesting Minor Subdivision from the Planning Board.

The Assistant Corporation Counsel confirmed the Applicant received approval from the ZBA and said there are two issues that the Board must consider separately. He said the first concerns the Applicants request to subdivide the lot and that procedure is similar to the one just previously discussed for the application at 5 & 7 Central Avenue. He said the second issue is the Site Plan approval for construction of two single-family homes on each lot, if the Minor Subdivision is approved.

The City Planner said the proposed site work will require clarification from SHPO and the DEC. She said the Applicant acknowledged the requirement and submitted a request for clarification to the appropriate agencies. She asked if there was any response.

The Applicant said the requests are under review and a response is pending.

The Assistant City Engineer reviewed his comment letter for the benefit of the Applicant and the Board. He said the Applicant should review the Site Plan accordingly.

Mr. Rosencrans moved to schedule a public hearing at the November Planning Board meeting.
Ms. Ware seconded the motion.
The motion passed unanimously via roll-call vote.

Ms. Moore moved to waive the preliminary plat referral to the Orange County Planning Board for additional review.
Mr. Rosencrans seconded the motion.
The motion passed unanimously via roll-call vote.

The Applicant was informed to contact the Secretary to meet the public hearing requirements and submit a revised plat in order to attend the next Planning Board meeting on November 17.

Index No. 2020-12

Applicant: Zeqir Hakanjin
Owner: Theodore G. Rieper
Location: 405 Grand Street

SITE PLAN Application to convert the existing Single-Family Dwelling (Townhome) into a Three-Family Dwelling.

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

DISCUSSION BY THE BOARD

Theodore Rieper, Applicant, appeared before the Board on behalf of the property owner.

The Applicant gave a brief overview of the project and highlighted the following:

- Proposal to convert the existing single-family dwelling into a three-family dwelling;
- Proposal requires six off-street parking spaces;
- 405 Grand Street does not have any off-street parking spaces available;
- Requesting a waiver of six off-street parking spaces.

The Assistant Corporation Counsel clarified that the Building Inspector determined the proposed expansion of the use at 405 Grand Street requires a side yard variance and six off-street parking spaces. He said an Area Variance is not under the purview of the Planning Board and the Applicant must submit an application to the ZBA for a determination. He said the issue before the Planning Board depends on whether or not the Applicant is proposing any site work. He said at the Planning Board Workshop earlier this month, the Applicant indicated no proposed site work subject to an approval of the parking variance. He asked the Applicant to clarify if there is any proposed site work assuming the ZBA grants the Area Variance.

The Applicant said the rear of the property facing the alleyway is in disrepair. He said site work will be performed at the rear of the property with some walls and landscaped for accessibility to the house.

The Assistant Corporation Counsel asked if the proposed work on the rear is independent from the parking determination.

The Applicant confirmed the proposed work on the rear of the property is independent from the parking determination.

The Assistant Corporation Counsel said the comments by the Applicant should not be construed as fatal to the application or disingenuous, but probably reflect a misunderstanding by the Applicant. He said the comment letters from City Staff were based on the representation from the Applicant that no site work was proposed. Now that the Applicant has indicated some level of site work, City Staff's must revise the comment letters accordingly. He said the Applicant should map the proposed modifications to the site on a Site Plan. He said the Board should also be aware that the owner made some unapproved exterior modifications which triggered a Stop Work Order. He said the Applicant must now submit an ARC application either to ratify the work in addition to any other proposed modifications to the exterior of the building, or apply for a building permit to restore the property to its previous state

The Applicant confirmed the Stop Work Order issuance.

The Assistant Corporation Counsel asked if there was any work done on the front of the building with respect to the landscape.

The Applicant said there was some concrete work done in front of the building that may now require removal.

The Assistant Corporation Counsel advised the Planning Board to adjourn the meeting until the ZBA makes a determination on the parking variance and the Applicant provides a more detailed site plan with regard to site work.

The Applicant was informed to submit a ZBA application and then submit a revised plan in order to attend the next Planning Board Workshop.

PERMIT EXTENSION REQUESTS

Index No. 2018-13

Applicant: Jonathan Moss, RA
Owner: Executive Reality Group, LLC
Location: 184 Liberty Street

Ms. Hooff recused herself from application 2018-13.

SITE PLAN & SPECIAL OFF-STREET PARKING PERMIT

Requesting an extension to the Special Off-Street Parking Permit.

The Special Off-Street Parking Permit Extension Request letter was made a matter of record.

DISCUSSION BY THE BOARD

The Assistant Corporation Counsel said the Board indicated they requested additional details and an appearance from the Applicant for the October meeting. He said the Applicant is not in attendance but the Board is free to discuss the submitted letter or adjourn the meeting and request an appearance by the Applicant. He gave a brief review of the application for the benefit of the Board and highlighted the following:

- Applicant obtained Site Plan & Special Off-Street Parking Permit approval on August 21, 2018 for an Apartment House;
- Applicant requests renewal of the Special Off-Street Parking Permit for six parking spaces;
- Site Plan approval has expired;
- Board may approve an extension of the Site Plan approval in accordance with §300-92(E).

Mr. Kelly said an appearance by the Applicant was implied but he does not recall a conversation specifically requiring the Applicant to appear at this meeting.

The Assistant Corporation Counsel said the Board may move forward on reviewing the request without the Applicant’s appearance.

The Chairperson said the Building Inspector commented that the property at 184 Liberty Street continues to remain in violation of City Code 121, the Vacant Building Registry issued on August 14, 2019 and the property will most likely incur the same violation for 2020. She said the Building

Inspector said there has been no other activity that would indicate the property owner is moving forward in renovating and occupying the structure as stated in earlier discussions.

Ms. Ware said she agrees with Mr. Kelly and the Board needs to hold people accountable. She said the City needs to see progress.

Ms. Moore said she is sympathetic towards the Applicant because he did mention he was working on other projects and the COVID-19 epidemic has caused delays. She said the Applicant should have followed the regulations and addressed the violation. She said she is not inclined to vote in favor of the extension.

Ms. Ware said the epidemic cause a significant delay in construction but there is no excuse in not filing paperwork.

Mr. Rosencrans agreed with Ms. Ware. He said there is no reason why the property owner did not file paperwork to address the violation. He said he is not in favor of approving the extension and any approval would set a bad precedent.

The Chairperson asked what would happen to the Applicant if the Board voted against his extension request.

The Assistant Corporation Counsel said the Applicant would have to resubmit a new Planning Board application for Site Plan approval.

Mr. Ware moved to extend the existing Site Plan approval.
Mr. Kelly seconded the motion.
The motion was defeated unanimously via roll-call vote.

Mr. Moore moved to extend the corresponding Special Parking Permit.
Ms. Ware seconded the motion.
The motion was defeated unanimously via roll-call vote.

With no further business to discuss, the meeting was adjourned at 10:20 p.m.

Respectfully submitted,

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