

REGULAR MEETING

July 25, 2017

City of Newburgh Zoning Board of Appeals

Summary of record of actions taken at the Regular Meeting of the Newburgh Zoning Board of Appeals held on July 25, 2017 at 7:00 p.m. at the City of Newburgh Activity Center, 401 Washington Street, Newburgh, New York 12550.

Members Present: Joanne Lugo, Chairperson
David Schwartz
Barbara Smith
Michael Papaleo
Corey Allen

Members Absent: Lashawn Jasper
Gary Campbell

Also Present: Jeremy Kaufman, Assistant Corporation Counsel
Omar Balbuena-Palma, Secretary

Old Business:

Appeal No. 2017-06

Applicant: Francisco Martinez
Owner: Raymond Lachance
Location: 50 Mill Street

Requesting a USE Variance to permit a Restaurant and an AREA Variance for 6 Off-Street Parking spaces, which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Zone.

Francisco Martinez, Applicant, and Michael Henderson, from Hennessy Architects, appeared before the Board. The Applicant intends to change the use of the building from an Auto Accessory Store, which is currently vacant, to a Restaurant (pizzeria). The Applicant said there will be no exterior changes or site work and the interior will be renovated to comply with the City Code.

Ms. Lugo confirmed that the cars will park in front of the building and that the curb cut on West Parmenter will be closed off. The entrance and exit on the property will be from Mill Street.

Mr. Papaleo said that parking is an issue in that area due to existing traffic.

The Applicant said the pizzeria he intends to open will be the second business in the area with a parking lot and that he owns the building behind 50 Mill Street. Customers will be able to park on that property. The Applicant said he will operate the pizzeria.

Ms. Smith recited question 6 on page 5 of form ZBA01 and requested the Applicant to justify the answer.

The Assistant Corporation Counsel said that in order to approve a Use Variance, the Board must consider the "unnecessary hardship" criteria listed in City Code Section 300-115(a)(2). The Board

could consider many different types of evidence in support of its decision, including documents submitted by the applicant and/or representations by the applicant on the record at a Board meeting. Ms. Smith said she would prefer to review financial information from the owner and not the tenant. Mr. Schwartz agreed.

Mr. Papaleo said the owner seems to have difficulty renting the building as an Automotive Accessory Sales and that is why he will vote to let the tenant change the use.

Chairperson Lugo opened the public hearing.

Armando Aguilar, 487 South Street, spoke in favor of the Applicant and the Applicant is an asset to the community.

Mr. Schwartz moved to close the public hearing.

Mr. Papaleo seconded the motion.

The motion carried unanimously.

Ms. Lugo said the business is needed in the City of Newburgh and the Latino community. She said she is pleased that the Applicant will live in the same neighborhood as the business.

Ms. Smith said that the landlord apparently agrees with the tenant's judgment and that her issue lies with the way the applications are reviewed.

Ms. Lugo said the applications need to be reviewed thoroughly prior to the public hearing.

The Assistant Corporation Counsel said that if Board members, individually, or the Board, collectively, require more information than what has been supplied by Applicant, the Board can request the applicant to return with said additional information at the next meeting.

Mr. Schwartz moved to declare Lead Agency pursuant to SEQRA.

Mr. Allen seconded the motion.

The motion carried unanimously.

Mr. Schwartz moved to issue a Negative Declaration pursuant to SEQRA.

Mr. Allen seconded the motion.

The motion carried unanimously.

Mr. Papaleo moved to approve the Use Variance as submitted by the Applicant.

Mr. Schwartz seconded the motion.

The motion carried unanimously via roll call vote.

Mr. Schwartz moved to approve the Area Variance as submitted by the Applicant.

Mr. Papaleo seconded the motion.

The motion carried unanimously via roll call vote.

New Business:

Mr. Schwartz moved to approve the June 27, 2017 minutes.
Ms. Smith seconded the motion.
The motion carried unanimously.

Appeal No. 2017-10

Applicant: Geneva Wirth
Owner: Mayapple Properties, LLC
Location: 263 Liberty Street

Requesting an AREA Variance for 10 feet on the front yard setback and 4 Off-street Parking Spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium-Density Residential

Charles T. Brown, PE, appeared before the Board. The Applicant said the building is pre-existing, will not be expanded and will not affect the environment. He said the pictures submitted show plenty of available on-street parking spots throughout the day and that there will be no adverse effect on the environment or neighborhood.

Mr. Papaleo clarified that the building is vacant and that the Applicant is proposing to change the use from a 2-family into a 4-family building with one bedroom on each floor.

The Applicant said there is one (1) apartment underneath the stairs and a loft at the top of the building. He said the building will have a sprinkler system and separate utilities for each floor.

Chairperson Lugo opened the public hearing.

Fredricka Lammont, 252 Liberty Street, said she is not in favor of the Applicant because of parking concerns.

Mr. Papaleo moved to close the public hearing.
Ms. Smith seconded the motion.
The motion carried unanimously.

Ms. Lugo moved to declare Lead Agency pursuant to SEQRA.
Mr. Papaleo seconded the motion.
The motion carried unanimously.

Mr. Papaleo moved to issue a Negative Declaration pursuant to SEQRA.
Mr. Schwartz seconded the motion.
The motion carried unanimously.

Ms. Smith moved to approve the Area Variance requested as submitted by the applicant.
Mr. Papaleo seconded the motion.
The motion carried unanimously via roll call vote.

Appeal No. 2017-11

Applicant: James A. Gibbons
Owner: 144 Tercera Corp
Location: 132 Third Street

Requesting an AREA Variance for 3 off-street Parking Spaces which does not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium-Density Residential Zone.

James A. Gibbons appeared before the Board. The Applicant submitted photos and floor plans for the record. He said the building was constructed in 1870, was used as a 3-family residence and he will require ARC approval in order to restore the property back to its original condition. He said the bottom floor will be a 2-bedroom apartment, the 2nd and 3rd floor will be a duplex apartment. He submitted pictures of Third Street throughout the day at various times to show enough on-street parking available. He said an approval will not hurt the environment or City. He said the chimney is a fire hazard and will be removed.

Ms. Lugo clarified that the current Certificate of Occupancy is for a 1-family dwelling and may have reverted to a 1-family a long time ago.

The Assistant Corporation Counsel said that the project is in the East End Historic District and it is an automatic Type 1 action for SEQRA. Thus, the project requires a coordinated review with the ARC. He said the only action the Board can take is to open/close the public hearing and declare its intent for Lead Agency pursuant to SEQRA. He said that the Board may choose to waive the Applicant's appearance at the next meeting if they have no additional requests.

Chairperson Lugo opened the public hearing.

No one spoke for or against the application.

Mr. Schwartz moved to close the public hearing.

Mr. Papaleo seconded the motion.

The motion carried unanimously.

Mr. Schwartz moved to declare its Intent for Lead Agency pursuant to SEQRA.

Mr. Papaleo seconded the motion.

The motion carried unanimously.

Ms. Lugo recommends voting on the application at the next ZBA meeting and waiving the Applicants appearance to that meeting.

The Applicant was informed that he does not need to attend the next ZBA meeting.

Appeal No. 2017-12

Applicant: Wendell Jackson
Owner: Jaber Nidal
Location: 46 William Street

Requesting an AREA Variance for 5 feet on the North side yard setback and 5 feet on the South side yard setback, 10 feet on the front yard setback, 10 feet on the rear yard setback, 2 Off-street Parking Spaces and 40% on lot coverage, which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Commercial District Zone.

The Applicant was not present at the meeting and the application was tabled until the next ZBA meeting.

The Assistant Corporation Counsel said that Planning Board approval is required for a Special Use Permit in the Commercial Zone and that the Planning Board has declared its intent to be Lead Agency. The ZBA can now vote to allow the Planning Board to be Lead Agency.

Mr. Schwartz made a motion to allow the Planning Board to act as Lead Agency.

Mr. Allen seconded the motion.

The motion carried unanimously.

Meeting adjourned at 8:40 p.m.

Respectfully Submitted:

Approved:



Omar E. Balbuena-Palma, Secretary

Joanne Lugo, Chairperson