

REGULAR MEETING

September 26, 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 September 26, 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
Austin Dubois

Members Absent: Lashawn Jasper

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

The Assistant Corporation Counsel introduced the new Zoning Board of Appeals member, Austin Dubois.

The Assistant Corporation Counsel briefed the Board regarding the New York State Department of Environmental Conservation's list of actions that have been categorically found not to have adverse impacts on the environment and have been statutorily exempted from SEQRA review. In those instances, the Board may vote to classify an action as a Type 2 action under SEQRA.

Old Business:

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.

The Assistant Corporation Counsel said the Applicant appeared back in June and gave a summary of the project. He said the Applicant did not require Planning Board approval and due to SEQRA timing with the Architectural Review Commission, the Zoning Board was not able to render a decision at the last meeting. The Board agreed to waive the Applicant's appearance at its next meeting. He said the application received ARC approval and the Zoning Board is now able to vote on the application.

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

Mr. Schwartz seconded the motion.

The motion passed unanimously via roll call vote.

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.

Wendell Jackson, applicant, appeared before the Board and gave brief overview of the project. The Applicant said his business has been at 46 William Street for a few years and is before the Board because he wants to bring the business into compliance now that he knows his obligations. He said he received approval from the Planning Board a Special Use Permit on the property. He said he is requesting a few variances for the setbacks and for two parking spots. He said that the submitted photographs show ample parking around the building.

Ms. Smith confirmed that the use is for automobile repair, glass detailing, paint less dent removal and that the Applicant will not use chemicals to remove the dents.

The Applicant said there will be no body work, no mechanical work and that although he does have a lift on-site it will not be used for mechanical purposes. He said he will not do engine work and that the proposed work will be relatively quick and does not foresee an abundance of cars stationed overnight.

Mr. Papaleo said he saw cars parked on the street and confirmed with the Applicant that they did not belong to him.

The Assistant Corporation Counsel gave a brief review of the project history and said that the Planning Board granted a six-month Special Use Permit where the Applicant will have to return for periodic reviews. He said the City Engineer and City Planner recommended waiving site plan approval because there were no proposed exterior or interior modifications.

The Applicant said that he will officially open as soon as he can and needs this job to provide a life for his family.

The Chairperson opened the public hearing.

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

Mr. Allen moved to close the public hearing.

Mr. Schwartz seconded the motion.

The motion carried unanimously.

The Assistant Corporation Counsel said that the Planning Board previously declared itself Lead Agency for the project issued a negative declaration.

Ms. Smith moved to approve the area variance requested as submitted by the applicant.

Mr. Allen seconded the motion.

The motion passed 5-1 via roll call vote

Mr. Papaleo voted against the Applicant

Appeal No. 2017-14

Applicant: Philip Gama

Owner: Philip Gama

Location: 14 Sherman Drive

Requesting an AREA Variance for 7 feet on the North East side yard setback that does not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential Zone.

Philip Gama, property owner, and Jonathan Cella, project engineer, appeared before the Board. The Applicant said they are requesting the variance for the proposed ten-foot wide addition on the northern side of the existing house. He said the setback will be reduced to three feet as and that the addition will be constructed on top of the existing driveway to mitigate environmental impact.

He said the addition will add a bedroom to building for his family and there are buildings in the neighborhood with a similar footprint. The Applicant said that the general feedback from the neighbors were mostly positive.

The Chairperson opened the public hearing.
There was no one in favor of the applicant.

Lu Asher 16 Sherman Drive, said that most of the houses are not three-bedroom buildings and that the addition is significant. He said the addition will be much closer to 16 Sherman Drive.

Sandra Moore read a letter from Dawn Dingle, 25 Flemming Drive, against the application.

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

Mr. Papaleo confirmed that the distance between the addition and the adjacent building will be around ten feet.

The Applicant said that the addition will not be in front of 25 Flemming Drive.

Ms. Smith clarified that the Applicant will not construct a new bathroom.

Mr. Papaleo confirmed that there will be no excavating on-site for the new addition and that the gutters will connect to the existing sewers

The Applicant submitted photos of similar buildings in the neighborhood.

Mr. Dubois moved to declare the application a Type 2 action under SEQRA.
Mr. Papaleo seconded the motion.
The motion carried unanimously.

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

Appeal No. 2017-15

Applicant: Sulma E. Fernandez

Owner: Aladesanmi Anjorin

Location: 603 Broadway

Requesting an AREA Variance for 12 Off-Street Parking spaces, which does not meet the requirements of the Schedule of Use and Bulk Regulations in the Commercial District Zone.

The property owner for Appeal No. 2017-15 was not present for the first call. The Applicant requested the application be pushed to the back of the agenda.

New Business

Appeal No. 2017-07

Applicant: Thomas Dodd

Owner: P.S. 6 Liberty St., LLC

Location: 1 Liberty Street

Requesting an AREA Variance for 38 off-street parking spaces which does not meet the requirements of the Schedule of Use and Bulk Regulations in the Downtown Neighborhood Zone.

Thomas Dodd, property owner and Chris Berg, project architect, appeared before the Board. The Applicant gave an overview of the project. He said the school has fallen into disrepair and he intends to renovate the building and design it so that the building is used by people who live in the immediate area. He said the building will be for a commercial use only and that most of the traffic will be during the day. He said that there are nine parking spaces in front of the school with a loading space and that there is available parking by Jones Street, Edward Street, S. William Street and by the Foundry as shown by the pictures he submitted.

Ms. Smith confirmed that there is a municipal parking lot not far from the property.

The Applicant says that based on his experience with similar projects in residential areas, this project will add jobs and value to the neighborhood and will increase foot traffic. As a result, violence will go down in the neighborhood.

Ms. Lugo said that parking during the winter may prove difficult and that the Applicant should be aware of the issue.

Ms. Smith confirmed that the submitted photos were taken between 5 and 6 p.m.

The Applicant said that the current parking availability on-site should help reduce the demand for street parking and does not believe that walking two blocks would be issue. He said he is expediting repairs on the property and is happy to have neighborhood awareness of the project and his only concern is that if he does not receive the approval, he will not be able to recover and the project will be doomed.

The Chairperson opened the public hearing.

Christine Mahoney said she is in support of the application and feels parking is not an issue

Christopher Hanson, said he is in support of the application and feels that vacant lots have held the City back and he does not want believe the parking should hold the application back.

Sarah Hoffman submitted a letter from Councilwoman Abrams. Ms. Hoffman said she supports the application regardless of the parking scenario.

No one spoke against the applicant.

Mr. Schwartz moved to close the public hearing.

Ms. Smith seconded the motion.

The motion carried unanimously.

The Assistant Corporation Counsel said the Board members have copies of the letter from Councilwoman Abrams and it is up to them on whether they choose to consider the letter or not.

Mr. Papaleo clarified that it will take the Applicant approximately three years to complete the project.

Ms. Lugo said that she is pleased that there are plans to restore the building.

The Applicant confirmed that he will not be constructing condominiums.

Mr. Papaleo moved to declare the application a Type 2 action under SEQRA.

Mr. Schwartz seconded the motion.

The motion carried unanimously.

Mr. Dubois moved to approve the area variance requested as submitted by the applicant.

Mr. Schwartz seconded the motion.

The motion was carried unanimously via roll call vote.

Appeal No. 2017-17

Applicant: Jamal Ruhe

Owner: Jeffrey C Bufano

Location: 91 City Terrace

Requesting an AREA Variance for 1,193 feet on lot area, 3 feet on lot width, 16 feet on lot depth, 10 feet on the front yard setback, 5 feet on the North side yard setback, 5 feet on the South side yard setback and 2 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

Jamal Ruhe, Applicant, appeared before the Board and submitted photos of parking availability. The Applicant said the intent is to convert the single family dwelling into a two family dwelling and that an approval by the Zoning Board for the setbacks and parking is required. He said the properties across the street are mostly unoccupied and there is ample parking on the street.

Mr. Schwartz confirmed the expansion of the use is allowed by right in the zone.

The Applicant said that down the block there is a parking garage reiterated that there is little to no demand for parking.

The Chairperson opened the public hearing.

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

Mr. Allen moved to close the public hearing.

Mr. Schwartz seconded the motion.
The motion carried unanimously.

Mr. Schwartz moved to declare the application a Type 2 action under SEQRA.
Mr. Dubois seconded the motion.
The motion carried unanimously.

Mr. Allen moved to approve the area variance requested as submitted by the applicant.
Mr. Schwartz seconded the motion.
The motion was carried unanimously via roll call vote.

Appeal No. 2017-15

Applicant: Sulma E. Fernandez

Owner: Aladesanmi Anjorin

Location: 603 Broadway

Requesting an AREA Variance for 12 Off-Street Parking spaces, which does not meet the requirements of the Schedule of Use and Bulk Regulations in the Commercial District Zone.

Aladesanmi Anjorin, property owner, Sulma Fernandez, Applicant, Jonathan Cella, project engineer, appeared before the Board.

The engineer said the property lies in the commercial district and the intent is to create a 1,800 sq. ft. bar. He said there will be no exterior modifications to the structure, and that they have received Site Plan approval from the Planning Board conditional upon receipt of an off-street parking variance for 12 spots from the Zoning Board. He said that there is adequate parking available at peak hours because the surrounding businesses have different uses.

Ms. Smith read the Applicant's answer to question six on form ZBA01 and said the question was directed at the owner to show what has been done to find a suitable business that does not require a variance.

The property owner said that the property was advertised by a real estate agent for six months and he could not find an interested party to look at the property.

Mr. Papaleo confirmed there is an occupied single family apartment on the 2nd floor and that there is no current reaction from the tenant.

The Applicant said the property is in commercial district where the bar is a permitted use and is before the Zoning Board for a parking variance and not a use variance.

Mr. Schwartz clarified that the bar will be on first floor.

The Chairperson opened the public hearing.

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

Mr. Allen moved to close the public hearing.

Mr. Schwartz seconded the motion.

The motion carried unanimously.

Mr. Allen moved to declare the application a Type 2 action under SEQRA.

Mr. Dubois seconded the motion.

The motion carried unanimously.

Mr. Schwartz moved to approve the area variance requested as submitted by the applicant.

Ms. Smith seconded the motion.

The motion was approved 5-1

Ms. Smith voted against the application

APPROVAL OF MINUTES

Mr. Schwartz moved to approve the July 25, 2017 minutes.

Mr. Papaleo seconded the motion.

The motion carried unanimously.

Meeting adjourned at 8:20 p.m.

Respectfully Submitted:

Approved:

Omar E. Balbuena-Palma, Secretary

Joanne Lugo, Chairperson