

ZONING BOARD OF APPEALS MEETING

Summary of record of actions taken at the regular meeting of the Newburgh Zoning Board of Appeals (“ZBA”) held on April 27, 2021 at 7:00 p.m. using Zoom videoconference.

Members Present: Joanne Lugo, Chairperson
Corey Allen
Ben Brandt
Dianne Dixon
Melvin Hales
Julie Lindell
Michael Papaleo

Also Present: Jeremy Kaufman, Assistant Corporation Counsel
J.K. Gentile, Secretary

The Chairperson called the meeting to order at 7:09 p.m. after confirming a quorum.

NEW BUSINESS

Appeal No. 2021-02

Applicant: Rafiq Majeed
Owner: 393 Liberty St., Inc.
Location: 212 South Street

Requesting an **AREA Variance** for 27 feet on lot depth, 7 feet on the front yard setback, 5 feet on the side yard setback and 5 feet on the rear yard setback, which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

Darren Doce appeared before the Board and gave an overview of project. There is an existing building on site with 2 dwelling units. The applicant proposes to construct 2 additional dwelling units attached to the existing building. The variances required relate to the existing building and existing lot.

Ms. Dixon asked if the footprint of the building is changing.

Mr. Doce said the footprint will change with a 618 square feet addition to the existing footprint.

Mr. Brandt asked if the addition will come out on the same plane as the building or set back.

Mr. Doce said that it will not be in line with the front of the building.

Mr. Papaleo asked where the addition will be for the existing building.

Mr. Doce said the addition will be on the lot to the right of the existing building, or to the east.

Mr. Papaleo asked if it will the buildings will be adjoined.

Mr. Doce said the buildings will be adjoined and share a common wall, but they will be two separate buildings.

Mr. Brandt asked if they could build to the front, to meet the plane of the other building, and why not line up the addition to make the building look like the other buildings on the street.

The Assistant Corporation Counsel said the property is within 500 feet from a County road and there is a GML §239 requirement. No comment has yet been received, so there can be no board action at this meeting.

The Chairperson opened the public hearing.

A.J. Coppola said the building is set back so as not to have to relocate electrical meters on the existing building and to distinguish the new construction from the existing structure.

Mr. Allen moved to close the public hearing.

Ms. Lindell seconded the motion.

The motion passed 6-0 via roll-call vote.

Appeal No. 2021-03

Applicant: Alec Klee Galli Architects

Owner: Fracasse Realty, LLC

Location: 33 S. Robinson Avenue

Requesting an **AREA Variance** for 38 off-street parking spaces, which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low Density Residential Zone with Commercial Overlay.

Alec Klee Galli and Richard Fracasse appeared before the Board.

Mr. Galli gave an overview of the project. He presented 2 permission letters from neighboring property owners that grant 63 spaces total, 33 from Sacred Heart Church and 30 from Scenic Hudson.

Mr. Brandt asked if the lots shown on the site plan belong to the property owner.

Mr. Galli confirmed both lots are part of Fracasse properties. There are 33 on-site parking spaces, including 4 handicapped-accessible spaces.

Ms. Lindell asked if there will be a sign directing people to the additional parking areas.

Mr. Galli said that hasn't come up yet but that is a good idea.

The Chairperson opened the public hearing.

There was no one present for or against the application.

Mr. Papaleo moved to close the public hearing.

Ms. Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Ms. Dixon moved to declare itself lead agency for SEQRA.

Ms. Lindell seconded the motion.

The motion passed 6-0 via roll-call vote.

Ms. Dixon moved to declare a negative declaration under SEQRA.

Ms. Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Mr. Papaleo moved to approve application as submitted.

Ms. Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Appeal No. 2021-04

Applicant: Jason Rodriguez

Owner: Soak and Rinse, LLC

Location: 754 Broadway

Requesting an **AREA Variance** for 5 feet on the side yard setback, which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low Density Residential Zone.

Jason Rodriguez appeared before the Board. His proposal is to create an addition to the back of the existing structure and convert the building into a 2-family dwelling.

Ms. Lindell asked if the property had a storefront.

Mr. Rodriguez confirmed it does not have a storefront and it will be a residential only property.

Ms. Lindell asked if the parking spaces in the back are available to the new building occupants.

Mr. Rodriguez confirmed this detail.

The Chairperson opened the public hearing.

There was one public comment made, sent via email. There was no one present for or against the application.

Ms. Dixon moved to close the public hearing.

Ms. Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Ms. Dixon moved to declare the action Type II for SEQRA.

Ms. Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Ms. Dixon moved to approve application as submitted.

Mr. Allen seconded the motion.

The motion passed unanimously via roll-call vote.

Appeal No. 2021-05

Applicant: Berg + Moss Architects, P.C.

Owner: Newburgh SHG 42 LLC

Location: 90 Lander Street

Requesting an **AREA Variance** for 5 feet on the front yard setback, 5% on lot coverage 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 Zone.

Chris Berg, Adam Shayanfekr, Michael Zarin, appeared before the Board. Mr. Berg presented. He said the project triggered ZBA consideration because of the change in use. There was no work being proposed to the footprint of the building.

There were no questions from the Board.

The Chairperson opened the public hearing.

There was no one present for or against the application.

Ms. Dixon moved to close the public hearing.

Ms. Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Ms. Dixon moved to declare the action Type II for SEQRA
Ms. Lindell seconded the motion.
The motion passed unanimously via roll-call vote.

Mr. Allen moved to approve application as submitted
Ms. Lindell seconded the motion
The motion passed 6-0 via roll-call vote.

Appeal No. 2021-06

Applicant: Berg + Moss Architects, P.C.
Owner: Newburgh SHG 42 LLC
Location: 189 Grand Street

Requesting an **AREA Variance** for 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.

Chris Berg, Adam Shayanfekr, Michael Zarin, appeared before the Board. Mr. Berg presented. He said the project triggered ZBA consideration because of the change in use. There was no work being proposed to the footprint of the building.

Mr. Hales asked if a parking study was conducted.

Mr. Berg said a parking study was not conducted.

Ms. Lindell asked what compelled the owner to convert property into a four-family.

Mr. Berg said the owner wanted to maximize the livable area and the building is suitable to convert into a four-family.

Ms. Dixon asked for additional documentation of late day/evening parking.

The Chairperson opened the public hearing.

There was no one present for or against the application.

Ms. Dixon moved to hold the public hearing open and table the application.
Ms. Lindell seconded the motion
The motion passed 5-2 via roll-call vote.

Appeal No. 2021-07

Applicant: Berg + Moss Architects, P.C.
Owner: Newburgh SHG 42 LLC
Location: 127 Chambers Street

Requesting an **AREA Variance** for 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.

Chris Berg, Adam Shayanfekr, Michael Zarin, appeared before the Board. Mr. Berg presented. He said the project triggered ZBA consideration because of the change in use. There was no work being proposed to the footprint of the building.
The Assistant Corporation Counsel said the application does include a request for 2 off-street parking spaces, though it was not noted on the agenda.

Ms. Lindell said a parking study should be considered for this application as well.

The Chairperson opened the public hearing.

There was no one present for or against the application.
Ms. Dixon moved to hold the public hearing open and table the application.
Ms. Lindell seconded the motion
The motion passed 4-3 via roll-call vote.

Appeal No. 2021-08

Applicant: Berg + Moss Architects, P.C.
Owner: Newburgh SHG 42 LLC
Location: 157 Broadway

Requesting an **AREA Variance** for 20 feet on the rear yard setback and 2% on lot coverage, which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Broadway Corridor zone.

Chris Berg, Adam Shayanfekr, Michael Zarin, appeared before the Board. Mr. Berg presented. He said the project triggered ZBA consideration because of the change in use. There was no work being proposed to the footprint of the building.
Ms. Lindell asked if a parking variance is necessary for this application.

The Assistant Corporation Counsel said the Broadway Corridor zone does not have the same parking requirements as the prior applications.

The Chairperson opened the public hearing.

There was no one present for or against the application.

Ms. Dixon moved to close the public hearing.

Ms. Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Mr. Allen moved to declare the action Type II for SEQRA.

Ms. Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Ms. Dixon moved to approve application as submitted.

Ms. Lindell seconded the motion.

The motion passed 6-0 via roll-call vote.

Appeal No. 2021-09

Applicant: Adam Shayanfekr

Owner: Newburgh SHG 15 LLC

Location: 224 Broadway

Requesting an **AREA Variance** for one (1) story on building height and midrise as building type, which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Broadway Corridor zone.

Chris Berg, Adam Shayanfekr, Michael Zarin, appeared before the Board. Mr. Berg presented. He said the project triggered ZBA consideration because of the change in use. There was no work being proposed to the footprint of the building.

The Chairperson opened the public hearing.

There was no one present for or against the application.

Ms. Dixon moved to close the public hearing.

Ms. Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Mr. Allen moved to declare the action Type II action SEQRA.

Ms. Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Ms. Dixon moved to approve application as submitted.

Ms. Lindell seconded the motion.

The motion passed 6-0 via roll-call vote.

Appeal No. 2021-10

Applicant: Kearney Realty & Development Group
Owner: City Of Newburgh
Location: 15 S. Colden Street

Requesting an **AREA Variance** for 59 off-street parking spaces, which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Downtown Neighborhood Zone.

Sean Kearney and Jamie LoGiudice appeared before the Board.

Mr. Kearney gave a brief overview of the project. He said Kearney Realty has a site development agreement with City of Newburgh to purchase and develop the property. Currently the property is vacant land. The proposal is to construct a building to support 67 residential units and a small commercial space for a restaurant.

The applicant has providing 8 parking spaces on site. The proposal would reconfigure part of South Colden Street to accommodate 27 additional on-street parking spaces for public use, but within 500 feet of the site. Maser Consulting did a parking analysis in a 500 foot radius of site, reviewing peak and off-peak times. The analysis took into account a 15% to 20% reduction in traffic for the pandemic. The study showed that within 500 feet there are 130-135 unused parking spaces, which is more than the variance requested.

Ms. LoGiudice said the off-street parking will be located on Edward Street. The restaurant will be located on the north side of the property, with handicapped-accessible parking spaces nearby.

Ms. Dixon asked if all 8 off-street spaces will be for handicapped parking.

Ms. LoGiudice said only 2 spaces will be used for that purpose.

Ms. Dixon asked how the other 6 spaces would be allocated.

Mr. Kearney said the spaces will be first come, first served.

Mr. Brandt asked how the project came into existence.

Mr. Kearney said the project was modeled on similar developments in the Hudson Valley that have proved successful. The first proposal was strictly residential. The second proposal was mixed-use with a small restaurant and rooftop terrace. About 40-45 units will have a preference for artists with income ranges from 40% AMI to 90% AMI.

Mr. Brandt asked the applicant if it considered more on-site parking, such as underground or decked parking.

Mr. Kearney said those parking options would have made the project financially infeasible.

Ms. LoGiudice presented the parking study.

The Assistant Corporation Counsel said the Planning Board expressed intent to be lead agency for SEQRA in a coordinated review project. Staff recommended the ZBA voting no objection to the Planning Board acting in this capacity.

The Chairperson opened the public hearing.

Mary Stevenson was concerned about parking.

Anthony Burrows was also concerned about parking as well as traffic.

Ms. Dixon moved to declare no objection to the Planning Board acting as lead agency for SEQRA purposes.

Ms. Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Ms. Dixon moved to hold the public hearing open and table the application.

Ms. Lindell seconded the motion

The motion passed unanimously via roll-call vote.

Appeal No. 2021-11

Applicant: Matthew Arbolino

Owner: Habitat for Humanity of Greater Newburgh

Location: 139 Johnston Street

Requesting an **AREA Variance** for two (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.

Matthew Arbolino and Mike Brooks appeared before the Board.

Mr. Brooks gave an overview for both 139 and 141 Johnston Street.

Ms. Lindell asked if there has been a parking study conducted.

Mr. Brooks said there was no parking study conducted.

Ms. Dixon said the Board is asking for some documentation – photos, parking studies, some type of evidence – about parking in the area, because the Board requires that from all applicants.

The Assistant Corporation Counsel said the Board should have some minimum level of evidence provided into the record to support the determination.

The Chairperson opened the public hearing.

There was no one present for or against the application.

Ms. Dixon moved to close the public hearing.

Ms. Lindell seconded the motion.

The motion passed 6-1 via roll-call vote.

Ms. Dixon moved to declare the action Type II for SEQRA.

Ms. Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Ms. Dixon moved to table the application.

Ms. Lindell seconded the motion

The motion passed 5-2 via roll-call vote.

Appeal No. 2021-11

Applicant: Matthew Arbolino

Owner: Habitat for Humanity of Greater Newburgh

Location: 141 Johnston Street

Requesting an **AREA Variance** for two (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.

Matthew Arbolino and Mike Brooks appeared before the Board.

The same issues for the Board were presented as for the 139 Johnston Street application.

The Chairperson opened the public hearing.

There was no one present for or against the application.

Ms. Dixon moved to close the public hearing.

Ms. Lindell seconded the motion.

The motion passed 6-1 via roll-call vote.

Mr. Brandt made mention that his no vote (closing public hearing) was based on the importance of hearing the community's opinion while the application is pending.

Ms. Dixon moved to declare the action Type II for SEQRA.

Ms. Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Ms. Lindell moved to table the application.
Ms. Lugo seconded the motion
The motion passed unanimously via roll-call vote.

Approval of Minutes

Ms. Lindell moved to approve the February meeting minutes.
Mr. Allen seconded the motion.
The motion passed unanimously via roll-call vote.

Note: no meeting was held in March 2021 as there were no applications.

With no further business to discuss, the meeting was adjourned at 9:40 p.m.

Respectfully Submitted:

Approved:

J.K. Gentile, Secretary

Joanne Lugo, Chairperson