

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 September 28, 2021 at 7:00 p.m. at the Activity Center, 401 Washington Street, Newburgh, New York.

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

Absent: Julie Lindell

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

The Chairperson called the meeting to order at 7:00 p.m. after confirming a quorum.

OLD BUSINESS

Appeal No. 2021-19

Applicant: Aaqib Majeed
Owner: Aaqib Majeed
Location: 13 North Street, Lot #1

Requesting an **AREA Variance** for 4 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low Density Residential zone.

Ken Lytle and Rafiq Majeed appeared before the Board.

Mr. Lytle presented the parking study.

The Assistant Corporation Counsel said there will be no vote at this meeting. A final vote can be made after the Planning Board declares lead agency and issued a negative declaration at a minimum.

The Chairperson opened the public hearing.

There was no one present for or against the application.

Dianne Dixon moved to close the public hearing.
Corey Allen seconded the motion.
The motion passed unanimously via roll-call vote.

The applicant said its submission was complete. With no further information for review, the Board gave the applicant the option of appearing or proceeding to a vote without appearance at the next Board meeting.

Appeal No. 2021-21

Applicant: Chris Berg / Berg + Moss Architects
Owner: Newburgh SHG 44 LLC
Location: 172 Chambers Street

Requesting an **AREA Variance** for 172 square feet on the lot area, 1 foot on the lot width, 10 feet on the front yard setback 5 feet on the side yard setback, 7% 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 appeared before the Board. He presented a parking study.

Ms. Dixon asked why the study did not include the other days of the week besides Tuesday and Friday.

Mr. Berg said an outside source conducted the parking study, could not give an explanation for that.

The Chairperson opened for public hearing.

There was no one present for or against the application.

Dianne Dixon moved to close the public hearing.
Michael Papaleo seconded the motion.
The motion passed unanimously via roll-call vote.

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

Dianne Dixon moved to approve application as submitted.
Michael Papaleo seconded the motion.
The motion passed 5-1 via roll-call vote.

NEW BUSINESS

APPEAL NO. 2021-22

Applicant: Rainbow Pools & Living Art Design / Lynn Eisenhut
Owner: Lester F. Bussey & Tooraj Kavoussi
Location: 346 Grand Street

Requesting an **AREA Variance** for 13 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.

Dave Ciotoli appeared before the Board and gave an overview of the project.

Ms. Dixon asked for clarification on answers submitted by the applicant in Part I of the Environmental Assessment Form.

The Assistant Corporation Counsel said certain answers on the SEQRA form were automatically populated by virtue of a GIS mapper tool. He said the matter is a Type II action by definition, as set forth in NYCRR 617.5(c)(12).

Mr. Papaleo asked for confirmation on the size of the pool.

Mr. Ciotoli said 12 x 24.

Mr. Papaleo asked if it could be smaller.

Mr. Ciotoli said they could not go smaller with a proposed eight-foot pool depth.

Mr. Allen asked if there are were other pools installed at other properties in the area.

Mr. Ciotoli said he did not know.

Mr. Allen asked how the water would be provided.

Mr. Ciotoli said the water is trucked in.

Mr. Brandt asked about the rear set back.

Mr. Ciotoli presented a drawing.

Mr. Brandt said that the drawing does not conform with what the application shows.

The Chairperson opened the public hearing.

Myrtle Jones spoke against the application.

The Board held the public hearing open.

Mr. Brandt requested drawings that show the relationship between the pool and house, to conceptualize the distance and the relationship to the surroundings.

Ms. Dixon asked for design detail that showed the accurate setback request and echoed Mr. Brandt's request. She also said if the applicant could not provide answers to the Board's questions, the property owner should consider appearing also.

The Board tabled the application until the next meeting.

APPEAL NO. 2021-24

Applicant: Sisha Ortuzar
Owner: Newburgh Enlarged City School District
Location: 191 Washington Street

Building A: Requesting an **AREA Variance** for 9 feet and 10 feet on the side yard setbacks, 10 feet on the rear yard setback, and 35 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential zone.

Building B and C (combined): Requesting an **AREA Variance** for 10 feet on the side yard setback, 10 feet on the front yard setback, 1 story on the building height, 10 feet on the building height and 118 off-street parking spaces, which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential zone.

Sisha Ortuzar, Jacob Karasik, Erik Cooney and Dominic Cordisco appeared before the Board.

Mr. Ortuzar gave an overview of the project.

Mr. Allen asked if the property is still owned by the Newburgh Enlarged City School District.

Mr. Ortuzar said they are currently in contract.

Mr. Brandt asked if the proposed new building will be 5 stories.

Mr. Ortuzar confirmed.

Ms. Dixon asked if the first floor will be commercial.

Mr. Ortuzar confirmed.

Mr. Brandt said he is not sure how a 5-story building fits into the neighborhood based on the current submissions.

Mr. Ortuzar presented an elevation drawing, a new submission made a matter of record.

Mr. Brandt asked if the existing buildings will be altered.

Mr. Ortuzar said they would not.

The Assistant Corporation Counsel said the project will also need ARC and Planning Board approval. The applicant indicated its preference to begin with the Zoning Board of Appeals. This project would be considered an unlisted action under SEQRA, though segmentation would be an issue to address later on. The Zoning Board of Appeals would act as lead agency for SEQRA purposes with respect to the area variance application.

The Chairperson opened the public hearing.

Chris Mountain spoke against the application.

The Board held the public hearing open.

Ms. Dixon asked why the parking study only included 1 day at 2 hours during the week and 1 weekend night.

Mr. Ortuzar said they presented a day study as it reflects the commercial parking. The evening study reflected resident use only. He also said there is currently a school zone parking restriction that they will request the City to remove. This will free up available parking.

Mr. Hales asked if there is on-site parking.

Mr. Ortuzar said there is none proposed.

Ms. Dixon said the area being captured in the parking study is too broad. She said asking an individual to walk 0.25 miles from their parked car to their residence is not reasonable. She would like to see a study include with more days and times, as well as a smaller geographic radius.

Ms. Dixon also said it is difficult to consider setbacks without a more complete design submission.

Mr. Papaleo agreed.

Ms. Dixon asked about on-site parking for individuals with disabilities.

Mr. Ortuzar said that the plan currently does not contemplate on-site parking for that use.

Mr. Brandt said the proposed density and height of the building is a concern.

Mr. Allen asked if they have spoken to members of the community about the project.

Mr. Cooney said they plan on doing so.

Mr. Brandt said he would like to see how these buildings integrate into the neighborhood in terms of their scale. He suggested using the green space to widen the building space and bring the building height down.

The Board tabled the application until the next meeting.

DISCUSSION ITEM

The Assistant Corporation Counsel discussed recent legislation that would effectively allow public boards to conduct virtual meetings through January 15, 2022. The Board did not reach a decision. The Assistant Corporation Counsel said staff would contact members individually for a decision by the end of the week in order to prepare for upcoming meetings.

Approval of Minutes

Dianne Dixon moved to approve the August 2021 meeting minutes, but amending to address an error. The address previously listed as “13 North Plank Road, Lot 1” was amended to “13 North Street, Lot 1.”

Corey Allen seconded the motion.

The motion passed unanimously via roll-call vote.

With no further business to discuss, the meeting adjourned at 7:55 p.m.

Respectfully Submitted:

Approved:

J.K. Gentile, Secretary

Joanne Lugo, Chairperson