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 August 23, 2022 at 7:00 p.m. at the Hall of Fame Building, 401 Washington Street, Newburgh, New York.

Members Present:	Joanne Lugo Chairperson Corey Allen Ben Brandt Tiffany Buxton Dianne Dixon Melvin Hales (alternate) Julie Lindell Michael Papaleo
Also Present:	Jeremy Kaufman, Assistant Corporation Counsel J.K. Gentile, Secretary

The Chairperson called the meeting to order at 7:10 p.m. after confirming a quorum.

OLD BUSINESS

APPEAL NO. 2022-014

Applicant: Jaroslava Simone Kvapil / Alvin Moonesar
Owner: Jaroslava Simone
Location: 59 Courtney Avenue

Requesting an **AREA Variance** for 758 sf on lot area, 6 ft on lot width, 3 ft on the front yard setback, 10/10 on the side yard setback, 31% 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.

Alvin Moonesar appeared before the Board and gave an overview of the parking study requested at the June Meeting.

DISCUSSION BY THE BOARD

Ms. Dixon asked for clarification about the days and times the photos were taken.

Mr. Moonesar said page one reflects a morning study and page two reflects an afternoon study.

Mr. Allen asked if there was an evening study conducted.

Mr. Moonesar said no.

Mr. Moonesar said this project is to accommodate a separate living arrangement for the current occupants of the house. He said there will be no additional cars added to the street parking.

Ms. Dixon said the parking study is insufficient.

Ms. Buxton agreed and said the current parking arrangement is not changing.

Mr. Allen said the parking study is insufficient.

Dianne Dixon moved to approve the application as submitted.
Julie Lindell seconded the motion.
The motion passed unanimously via roll-call vote.

APPEAL NO. 2021-24

Applicant:	Sisha Ortuzar
Owner:	191 Washington Street LLC
Location:	191 Washington Street

Requesting an **AREA Variance** for 60-unit count, 85,800 sq ft on lot area, 21% on lot coverage and 3 off-street parking spaces with do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone with a Neighborhood Commercial Overlay.

Sisha Ortuzar appeared before the Board.

The Assistant Corporation Counsel gave a brief background for the Board. He said the Applicant included and requested certain area variances in its original submission, but those area variance requests were inadvertently not carried forward into the Informational Report, and in turn, not considered or approved by the Zoning Board of Appeals in its decision from December 28, 2021. The applicant requested these area variance requests be considered by the Board in the interest of accuracy for the project. He said the applicant has made no changes in any representations when it sought its vote in December 2021. He asked the Board to review the revised July 12, 2022 Informational Report and to note that the specific area variances that were not included in the first request are represented in bold. He reviewed each of them with the Board.

DISCUSSION BY THE BOARD

Ms. Lindell asked if detailed architectural drawings were reviewed.

The Assistant Corporation Counsel said a conceptual design was presented. He said the overall layout of the buildings has not changed. He said the general representations to the Zoning Board of Appeals stayed the same.

Ms. Lindell asked if the unit number increased.

The Assistant Corporation Counsel said the unit number has not changed. He said the unit count presented is, and has always been, 70 units total for the three buildings.

Ms. Dixon asked if this is a ministerial exercise to correct the record.

The Assistant Corporation Counsel confirmed. He said there were no substantive changes made to the plan set that was considered by the ZBA at its December 2021 meetings.

Mr. Allen asked what the difference from the last approval is.

The Assistant Corporation Counsel said approving area variances missing from the bulk table from the December 2021 vote.

The Chairperson opened the public hearing.

Alvin Moonesar spoke in favor of the application.

Albert Mizrahi spoke in favor of the application.

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

Corey Allen moved to approve the area variances as requested based on the July 12, 2022 Informational Report.
Julie Lindell seconded the motion.
The motion passed 4-2 via roll-call vote.
(Tiffany Buxton abstained from vote)

NEW BUSINESS

APPEAL NO. 2022-18

Applicant: Alvin Moonesar
Owner: VIP Partners LLC
Location: 85 William Street

Requesting an **AREA Variance** for 5 ft/2.4 ft on the side yard setbacks, 23% on lot coverage 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 with a Neighborhood Commercial Overlay.

Alvin Moonesar appeared before the Board and gave an overview of the proposed project.

DISCUSSION BY THE BOARD

Ms. Lindell asked if this is considered a row house.

Mr. Moonesar said no.

Ms. Dixon asked for confirmation that the parking study submitted is a one day and one block study.

Mr. Moonesar said yes.

Mr. Papaleo asked the use is currently for a one-family.

Mr. Moonesar said he is unsure.

Mr. Papaleo asked if it is currently occupied.

Mr. Moonesar said no one is currently occupying the home.

Mr. Brandt asked the total square footage of each unit.

Mr. Moonesar said each floor is 748 square feet.

Mr. Papaleo asked the applicant if he owns the neighboring lots.

Mr. Moonesar said yes.

Mr. Papaleo asked if he has plans to develop the neighboring properties.

Mr. Moonesar said yes.

The Chairperson opened the public hearing.

Albert Mizrahi spoke in favor of the application.

Brenda Dunham spoke against the application.

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

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

The Applicant requested a table of its application until next meeting for submission of a new parking study.

APPEAL NO. 2022-19

Applicant:	Michael Mamiye
Owner:	Nutopia 31 Dubois LLC
Location:	31 Dubois Street

Requesting an **AREA Variance** for 8655 sq ft on lot area, 25.1 ft on the lot width, 1.7 ft on the front yard setback, 9.6 ft/0 ft on the side yard setbacks, 2.3 ft on the rear yard setback, 18% on lot coverage and 5 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

Michael Mamiye, Albert Mizrahi and Chris Berg appeared before the Board.

Mr. Mizrahi gave an overview of the proposed project.

Mr. Berg added the building is deep and it is not difficult to architecturally split into a six-unit building, two units per floor.

DISCUSSION BY THE BOARD

The Assistant Corporation Counsel asked if there will be any change to the building footprint.

Mr. Berg said the building footprint will remain the same.

Mr. Papaleo asked the square footage of each floor.

Mr. Berg said he estimates about 1,500 square feet per floor.

Ms. Dixon asked if there are other six-unit buildings on Dubois Street.

Mr. Mamiye said there are at least two other buildings with 6 units.

Mr. Allen expressed his concern about the past parking request for 60 Dubois Street and this present request as parking appears to be currently limited on Dubois Street.

Ms. Dixon asked to confirm there was a total of nine bedrooms.

Mr. Mamiye said yes.

Mr. Papaleo asked to confirm that there will be six one-bedroom apartments.

Mr. Mamiye said yes.

The Chairperson opened the public hearing.

Martin Ellis spoke against the application
Yvonne Garriques spoke against the application.
Michael Robinson spoke about the change to the neighborhood over such a short period of time.

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

Dianne Dixon moved to declare itself lead agency for SEQRA.
Corey Allen seconded the motion.
The motion passed unanimously via roll-call vote.

Corey Allen moved to declare a negative declaration under SEQRA.
Julie Lindell seconded the motion.
The motion passed unanimously via roll-call vote.

Mr. Berg said the parking dynamic would not change whether this project is a three-family or a six-family because the parking count would remain the same.

Ms. Dixon said it is not just the parking, it is the consideration of how this project impacts the density of the neighborhood.

Mr. Brandt suggested submitting financial evidence of re-developing from a three-family to a six-family.

Ms. Buxton said she would like to see a home developed rather than remain vacant.

Mr. Allen said adding density at the proposed level is an issue.

Mr. Papaleo said keeping this as a three-family increases the potential for increased parking spaces.

Ms. Lindell agreed with Mr. Papaleo.

The Chairperson said her concern is density.

The Applicant requested a table of its application until next meeting for submission of evidence of hardship.

(8:45p.m. Melvin Hales excused himself from the meeting)

APPEAL NO. 2022-20

Applicant: Robert Fontaine
Owner: Industrial House LLC / Monica Coronatti
Location: 47 Lander Street

Requesting an **AREA Variance** for 34.2 ft on lot depth, 1.4 ft on the front yard setback, 4.5 ft/1.6 ft on the side yard setbacks, .8 ft on building height and 15% landscaped area which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Downtown Neighborhood Zone.

Robert Fontaine and Chris Berg appeared before the Board.

Mr. Berg gave an overview of the proposed project.

DISCUSSION BY THE BOARD

The Assistant Corporation Counsel asked if there will be any change to the building footprint.

Mr. Berg said the building footprint will remain the same.

Ms. Dixon asked if this project will be a two-family with 1st floor commercial.

Mr. Fontaine confirmed.

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.

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

Corey Allen moved to approve the application as submitted.
Julie Lindell seconded the motion.
The motion passed unanimously via roll-call vote.

<u>APPEAL NO. 2022-21</u>

Applicant: Chris Berg / Berg + Moss Architects
Owner: 75 Grove LLC
Location: 191 N. Miller Street

Lot A: Requesting an **AREA Variance** for 625 square feet on lot area which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

Lot B: Requesting an **AREA Variance** for 625 square feet on lot area 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 and gave an overview of the proposed project.

DISCUSSION BY THE BOARD

The Assistant Corporation Counsel said currently this is a single lot with one existing structure. He said the applicant's fully built-out proposal is to demolish the existing structure, subdivide the lot and erect two separate three-family homes on each lot. He said the State Historic Preservation Office, has deemed the existing structure as a contributing building in the Historic District. The demolition application is pending before the ARC. He said this application is pending before the Planning Board for a subdivision application. He said the applicant is before the Zoning Board of Appeals for current review because by the proposed subdivision, the new lot size does not conform to some of the City's bulk area regulations. He said depending on the outcomes from the other City Boards, the applicant may return to the Zoning Board of Appeals for additional area variances related to the location of proposed structures on the site. He said the only variances being considered tonight is lot area and lot depth.

The Chairperson opened the public hearing.

Brenda Dunham spoke against the application.

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

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

Dianne Dixon moved to approve the area variances for lot area and lot depth.
Julie Lindell seconded the motion.
The motion passed 6-1 via roll-call vote.

<u>APPEAL NO. 2022-22</u>

Applicant: Javier Fiscal
Owner: Walter Park
Location: 435 Broadway

Requesting an **AREA Variance** for 2.9 ft on the front yard setback, 39 ft on the East side yard setback, 2.3 on the West side yard setback, 3 stories on the building height and 25% on the frontage occupancy which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Broadway Corridor Zone

Floyd Johnson appeared before the Board and gave an overview of the proposed project.

DISCUSSION BY THE BOARD

The Assistant Corporation Counsel asked if the building footprint will change.

Mr. Johnson said no.

Mr. Papaleo asked if the proposed project is one building.

Mr. Johnson confirmed.

The Chairperson opened the public hearing.

There was no one present for or against the application.

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

The Assistant Corporation Counsel asked for the total square footage of the building.

Mr. Johnson said less than 4,000 square feet.

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

Corey Allen moved to approve the application as submitted.
Julie Lindell seconded the motion.
The motion passed unanimously via roll-call vote.

APPEAL NO. 2022-23

Applicant: Manuel Zacarias
Owner: Manuel Zacarias-Gregorio
Location: 288 South William Street

Lot A: Requesting an **AREA Variance** for 7.4 ft on the front yard setback, 9.1 ft/9.1 ft on the side yard setbacks and 16.5 ft on the rear yard setback which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential Zone.

Lot B: Requesting an **AREA Variance** for 6.9 ft on the front yard setback, 9 ft/9 ft on the side yard setbacks, 16.4 ft on the rear yard setback and 2 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential Zone.

Floyd Johnson and Stephanie Midler appeared before the Board.

Mr. Johnson gave an overview of the proposed project.

Mr. Johnson said the original plan placed four parking spaces in the rear of the property. He said reviewing the turning radius, it was determined there is not enough room to accommodate the four spaces in the rear of the property. He said he has amended his request for off street parking from 4 parking spaces to 3 parking spaces on Lot B.

DISCUSSION BY THE BOARD

Ms. Dixon asked if there are other three family buildings on that block.

Mr. Johnson said mostly two-family buildings.

Mr. Papaleo said the Lot B proposed driveway places the proposed structure close to the neighboring home.

Mr. Brandt asked if there is on street parking on the block.

Ms. Midler said based on her review there appears to be available parking.

Ms. Dixon requested submission of a parking study.

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.

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

The Assistant Corporation Counsel said an updated Informational will be issued to the applicant reflecting the current on-street parking variance request.

The Applicant requested a table of its application until next meeting for submission of a parking study.

APPEAL NO. 2022-24

Applicant:	Jonathan Moss / Berg + Moss Architects
Owner:	TiffanyMichelle Design, LLC
Location:	23 Hudson View Terrace

Lot A: Requesting an **AREA Variance** for 1 off-street parking space which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential Zone.

Lot B: Requesting an **AREA Variance** for 1 off-street parking space which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential Zone.

Tiffany Buxton recused herself from the application.

Tiffany Buxton, Todd Buxton and Chris Berg appeared before the Board.

Tiffany Buxton gave an overview of the proposed project.

DISCUSSION BY THE BOARD

Ms. Dixon asked if there are other three family buildings on the block.

Ms. Buxton said it is mostly two-family buildings on the block. Mr. Buxton added that there are some larger multi-family buildings on the block as well.

Mr. Brandt asked if there is a height variance being requested.

The Assistant Corporation Counsel said no.

The Chairperson opened the public hearing.

There was no one present for or against the application.

Corey Allen moved to close the public hearing.
Julie Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

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

Corey Allen moved to approve the application as submitted.
Julie Lindell seconded the motion.
The motion passed unanimously via roll-call vote.

<u>Approval of Minutes</u>

Corey Allen moved to approve the July 2022 meeting minutes, subject to amending two errors.
Julie Lindell seconded the motion.
The motion passed unanimously via roll-call vote.

With no further business to discuss, the meeting adjourned at 9:22 p.m.

Respectfully Submitted:	Approved:
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J.K. Gentile, Secretary	Joanne Lugo, Chairperson