

CITY OF NEWBURGH
ZONING BOARD OF APPEALS
123 Grand Street, Newburgh, NY 12550

Joanne Lugo, Chairperson
J.K. Gentile, Secretary
Phone (845) 569-7383

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 January 24, 2024 at 7:00 p.m. at the Activity Center, 401 Washington Street, Newburgh, New York.

Members Present: Joanne Lugo, Chairperson
Ben Brandt
Tiffany Buxton
Melvin Hales (alternate)

Absent: Corey Allen
Dianne Dixon
Julie Lindell
Michael Papaleo

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

The Chairperson called the meeting to order at 7:05 p.m. after confirming a quorum.

The Assistant Corporation Counsel noted for all applicants presenting for the evening that all four votes are required to approve an application.

OLD BUSINESS

APPEAL NO. 2023-40

Applicant: Angelo Balbo
Owner: Angelo Balbo Management LLC
Location: 825 Broadway & 829 Broadway

Requesting a **USE Variance** for an Apartment House in the Low-Density Residential Zone with a Neighborhood Commercial Overlay.

The GML §239 comment letter made matter of record.

Natalie Quinn and Kelly Lybolt for KARC Consulting appeared before the Board.

The Assistant Corporation Counsel said at the last presentation to the Board in November 2023 the GML §239 comment from the County was pending. He said the County comment letter has now been issued and is in the Board member packets for review. He said the Board held a public

hearing in September 2023, carried the public hearing over to the October 2023 meeting, and also closed the public hearing at the October 2023 meeting.

Ms. Quinn said at the November meeting the Board was provided with additional figures regarding reasonable rate of return and submitted renderings to present how the proposed building fits into the character of the neighborhood. She said for this presentation to the Board they have provided the County's response and incorporated the County's comments into the site plan. She said the site is constrained by the longest border, the Quassaick Creek, which limits the amount of space on the site that can be developed. She said they have made strong efforts to respond to the Board's requests and to address comments and concerns expressed by the Board.

The Assistant Corporation Counsel gave the Board instructions for consideration in a use variance application, including City Code §300-115 and General City Law §81-b.

Ms. Lybolt said the applicant submitted a narrative supporting each condition listed in City Code §300-115(A) for the record.

The Applicant requested a table of its application until next meeting.

APPEAL NO. 2023-20

Applicant:	Sean Kearney/Kearney Realty & Development Group, Inc.
Owner:	City of Newburgh
Location:	140 Montgomery, 146 Montgomery Street & 137 Smith Street

Requesting an **AREA Variance** for 45 feet on the side yard setback and 74 off-street parking spaces, which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Waterfront Gateway Zone.

Sean Kearney, Christian Donahoe, Rich D'Andrea and Jamie LoGiudice appeared before the Board.

Ms. LoGiudice said they last presented to the Zoning Board in May 2023. She said since they have been working through details with the Planning Board, advanced two traffic studies for the Planning Board review, and have received a negative declaration for SEQRA.

The Assistant Corporation Counsel said the Zoning Board held and kept open the public hearing from the May 2023 meeting. He said the Planning Board declared itself lead agency for a coordinated SEQRA review and issued a negative declaration for the project at its November 2023 meeting.

The Chairperson opened the public hearing.

No one was present for or against the application.

Melvin Hales moved to close the public hearing.
Tiffany Buxton seconded the motion.
The motion passed unanimously via roll-call vote.

The Applicant requested a table of its application until next meeting.

NEW BUSINESS

APPEAL NO. 2024-01

Applicant: Eli Vaknin
Owner: 35 Johnston LLC
Location: 35 Johnston Street

Requesting an **AREA Variance** for 5 feet on the North side yard setback, 5 feet on the South side yard setback, 15% on lot coverage and 6 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

Eli Vaknin and Dan Gilbert appeared before the Board.

Mr. Vaknin gave an overview of the proposed project. He said they presented to the Board in April 2023 with a proposal to construct a four-family dwelling and that the Board denied that request. He said they present a new proposal to construct a three-family dwelling on a vacant lot for consideration. He said the new proposal reduces the lot coverage by five percent, the side yard setback by five feet and the off-street parking request by 2 spaces.

The Chairperson opened the public hearing.

Austin Dubois spoke in favor of the application.

Ben Brandt moved to close the public hearing.
Tiffany Buxton seconded the motion.
The motion passed unanimously via roll-call vote.

Mr. Brandt asked if the reduction of the side yard setback would help to bring the building away from the neighboring rear property.

Mr. Vaknin said the new design brings the entire building away from the rear property.

Ben Brandt moved to declare the action Type II for SEQRA.
Tiffany Buxton seconded the motion.
The motion passed unanimously via roll-call vote.

The Chairperson moved to approve the application as submitted.
Tiffany Buxton seconded the motion.
The motion passed unanimously via roll-call vote.

APPEAL NO. 2024-02

Applicant: Austin Dubois
Owner: Austin Dubois
Location: 7 Benkard Avenue

Requesting an **AREA Variance** for 50 feet on lot depth, 20 feet on the rear yard setback and 15% minimum landscaped area which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Downtown Neighborhood Zone.

Austin Dubois appeared before the Board and gave an overview of the proposed project. He said he received Architectural Review Commission approval in August 2023.

Mr. Brandt asked if the stairs leading to the roof constitute a fourth story.

Mr. Dubois said no.

The Chairperson opened the public hearing.

Nancy Colas spoke against the application.

Ben Brandt moved to close the public hearing.
Tiffany Buxton seconded the motion.
The motion passed unanimously via roll-call vote.

Ben Brandt moved to declare the action Type II for SEQRA.
Tiffany Buxton seconded the motion.
The motion passed unanimously via roll-call vote.

The Applicant requested a table of its application until next meeting.

APPEAL NO. 2024-03

Applicant: John Maragliano
Owner: Lake Street, LLC
Location: 207 Lake Street

Requesting an appeal of a determination made by the Fire Chief and Acting Building Inspector in an Informational Report dated June 29, 2023.

John Maragliano, Ramon Gonzalez and John Furst, Esq. appeared before the Board.

Mr. Furst said Mr. Maragliano's business has been operating at the location for over twenty years. He said the business fabricates metal to create safety equipment for trenches, and they rent that equipment. He said in 2013 they expanded the business and at the time of the expansion the property was determined to be "Commercial" under the old zoning code. The current Certificate of Occupancy is for "Commercial" use. He said now that his client is looking to expand the existing facility again. He said the Building Inspector considers the expansion of the use to be "Industrial" in nature. He said his client believes that the nature of his business is more in line with a "Cottage Industry" in the current zoning code. He said the expansion would consist of 14,000 square feet of new office space and 5,500 square feet of additional space within the main building for indoor storage. He said all the manufacturing is conducted indoors. He said there have been no prior complaints of noise, dust, or odor. He said the traffic in and out of the building will not change. He said his client is seeking an interpretation of the zoning code and the Building Inspector's ruling to deem the proposed expansion as a "Cottage Industry".

Mr. Brandt asked for confirmation that the owner is not changing the nature of the current business operations.

Mr. Furst confirmed.

The Assistant Corporation Counsel referred to the City Code to and read the definitions of "Cottage Industry" and "Industrial Use".

Mr. Hales asked if all manufacturing is conducted on site or are there parts of the manufacturing that are sourced out to be assembled.

Mr. Maragliano confirmed that all manufacturing and assembly is conducted on site.

The Chairperson opened the public hearing.

No one was present for or against the application.

Ben Brandt moved to close the public hearing.

Tiffany Buxton seconded the motion.

The motion passed unanimously via roll-call vote.

Ben Brandt moved to declare the action Type II for SEQRA.

Tiffany Buxton seconded the motion.

The motion passed unanimously via roll-call vote.

Ben Brandt moved to approve the determination that the proposed use is a "Cottage Industry".

Tiffany Buxton seconded the motion.

The motion passed unanimously via roll-call vote.

APPEAL NO. 2024-04

Applicant: Matthew D. Sorrell, PE
Owner: Amjad Qayyem and Lisa Perez
Location: 138 Lander Street

Requesting an **AREA Variance** for 58 square feet on lot area, 0.58 feet in the lot width, 2.9 feet on the front yard setback, 5 feet on the South side setback, 2.9 feet on the North side setback, 5% on lot coverage and 3 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

Amjad Qayyem and Matthew Sorrell appeared before the Board.

Mr. Sorrell gave an overview of the proposed project.

Ms. Buxton asked what the proposed configuration of the apartment units will be.

Mr. Qayyem said the first floor one bedroom, second floor one bedroom, and the third floor will be a three bedroom.

The Chairperson opened the public hearing.

No one was present for or against the application.

Ben Brandt moved to close the public hearing.
Tiffany Buxton seconded the motion.
The motion passed unanimously via roll-call vote.

Ben Brandt moved to declare the action Type II for SEQRA.
Tiffany Buxton seconded the motion.
The motion passed unanimously via roll-call vote.

The Applicant requested a table of its application until next meeting.

APPROVAL OF MINUTES

Ben Brandt moved to approve the November 2023 minutes as submitted.
Tiffany Buxton seconded the motion.
The motion was approved unanimously via roll-call vote.

EXECUTIVE SESSION

Ben Brandt moved to enter into the Executive Session.
Tiffany Buxton seconded the motion.
The motion was approved unanimously via roll-call vote.

Ben Brandt moved to exit out of the Executive Session.
Tiffany Buxton seconded the motion.
The motion was approved unanimously via roll-call vote.

With no further business to discuss, the meeting was adjourned at 9:05 p.m.

Respectfully submitted,

J.K. Gentile
Secretary to the Land Use Boards