

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 February 27, 2024 at 7:00 p.m. at the Activity Center, 401 Washington Street, Newburgh, New York.

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

Absent: Julie Lindell
Michael Papaleo

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

The Chairperson called the meeting to order at 7:12 p.m. after confirming a quorum.

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 applicant contacted City staff earlier in the day and requested an adjournment of its application.

The application was tabled until the 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.

Mr. Kearney gave an overview of the proposed project for the Board members who were not present at the January meeting. He said the application continues to be reviewed by the Planning Board. A parking analysis was initiated in the spring of 2023 and supplemented in the fall of 2023. A traffic analysis was completed and incorporated into the site plan as part of the Planning Board review and has been provided to the Zoning Board for review.

The Assistant Corporation Counsel said the Planning Board declared itself lead agency for a coordinated SEQRA review. The Planning Board issued a SEQRA negative declaration for the project at its November 2023 meeting. He said the Zoning Board held a public hearing at the January 2024 meeting. There were no comments made for or against the application. The Zoning Board closed the public hearing at the same meeting.

Ms. Dixon asked for additional information on the parking study.

Mr. D'Andrea gave an overview of parking study submitted in May 2023, noting the conclusion that there is sufficient parking to accommodate the 74-parking variance request. He said in a 500-foot radius, there are 50 additional unoccupied parking spaces. He said they reviewed the Institute of Transportation Engineers data for the type of housing proposed and it showed a reduced parking demand that is less than the City Code.

Mr. Allen asked if the applicant conducted community outreach in the surrounding neighborhood to inquire how parking might create an adverse effect or impact the current conditions.

Mr. D'Andrea said outreach was not conducted in the neighborhood and that the collected data is based on actual cars counted on the street, primarily during an overnight period.

Mr. Kearney added the Planning Board Chairperson requested an additional traffic study based on the congestion issues during active school drop-off and pick-up hours. He said that information was incorporated into the study and provided for consideration.

Mr. D'Andrea said they are proposing specific street improvements to improve the traffic operations at the intersection of Montgomery Street and South Street.

Dianne Dixon moved to approve the application as submitted.
The Chairperson seconded the motion.
The motion passed 5-1 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 and the parking study for the Board members that were not present at the January meeting.

Ms. Dixon asked if this project is subject to the Architectural Review Commission review.

Mr. Sorrell confirmed.

Mr. Allen asked about the reason was to convert the property from a two-family into a three-family.

Mr. Qayyem said the previous owner converted what was originally a three-family into a two-family for financial reasons. He said he would like to convert the building back to its original configuration.

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

Mr. Sorrell said no.

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

APPEAL NO. 2023-44

Applicant: Chris Berg, R.A./Berg + Moss Architects, PC
Owner: 85 Renwick Street LLC
Location: 85 Renwick Street

Amendment to 10/24/23 approved application.

Requesting an **AREA Variance** for 1.5 feet on north front yard setback, 5.8 feet on the west front yard setback, 3.5 feet on the east side yard setback, 3.5 feet on the south side yard setback, 12 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Downtown Neighborhood Zone.

The Assistant Corporation Counsel said the Zoning Board approved this application at the October 2023 Zoning Board meeting.

Chris Berg appeared before the Board and gave an overview of the amendment request. He said the original design aligned the proposed building with the neighboring buildings on Renwick Street and Liberty Street. He said when they received additional survey information, it revealed that the adjoining buildings were not surveyed correctly and that their proposed building required a location shift to meet the alignment of the adjoining buildings. He said in addition, when they submitted for an updated Building Inspector's ruling/Informational, the parking variance was not reflected correctly on the original ruling. He said the presented information is the correct variance request.

Mr. Allen asked if community outreach was conducted in the surrounding neighborhood to inquire how parking might create an adverse effect or impact the current conditions.

Mr. Berg said he did have conversations with community members in the adjacent buildings and across the streets. He said he showed them a historic photo of the building that used to be in the vacant lot. He said the residents did share concerns regarding parking.

Dianne Dixon moved to keep the public hearing closed for the amendment application.
The Chairperson seconded the motion.
The motion passed 4-2 via roll-call vote.

Dianne Dixon moved to declare the action Type II for SEQRA on the amended application.
The Chairperson seconded the motion.
The motion passed unanimously via roll-call vote.

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

NEW BUSINESS

APPEAL NO. 2024-05

Applicant: Andrew Schrijver
Owner: Mid Hudson Film LLC
Location: 50, 50 ½, 52, 54 Liberty Street

Requesting an **AREA Variance** for 35.5 feet on the maximum side yard setback and 115 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Downtown Neighborhood Zone.

Andrew Schrijver, Chris Berg, and Frank Filiciotto appeared before the Board.

Mr. Schrijver gave an overview of the proposed project.

Mr. Filiciotto, of Creighton Manning, gave an overview of the parking and traffic study.

Mr. Filiciotto said the project contemplates 143 residential units and 7,596 square feet of commercial space. The total parking requirement per City Code is 152 parking spaces. He said they are able to provide 43 on-site parking spaces. He said the parking variance request is 109 parking spaces. He said the parking study included an area of 500 feet from the proposed property boundary and five various time periods with emphasis on the late evening hours and weekend days. He discussed the proposed plans for changing street directionals.

Mr. Schrijver said changing street directionals would require an ordinance approved by the City Council.

Mr. Allen asked why the parking study did not include photos documenting available parking at night.

Mr. Filiciotto said they were on site and counted available parking spaces at night.

Mr. Allen asked about the reason to create 143 units in a heavily dense area.

Mr. Schrijver said the choice for 143 units is to meet the need for affordable and market rate housing in a growing city.

Ms. Dixon asked if the 43 on-site parking spaces are available for everybody.

Mr. Filiciotto said the 43 on-site parking spaces would be first come, first served designated parking spaces.

Ms. Dixon asked if there is available parking for the retail space.

Mr. Schrijver said no.

Mr. Filiciotto said consider that dedicated street parking is not available to commercial establishments in the surrounding area.

Mr. Hales asked if a grocery store is considered as commercial space, available parking should be a notable consideration.

The Assistant Corporation Counsel said the representation from the applicant is that the commercial space is going to be designated as retail space, which is also reflected in the Informational report of the Building Inspector.

Mr. Berg said the parking study showed how residential use and retail use do not often overlap.

The Assistant Corporation Counsel said the applicant will need an updated Building Inspector's ruling/Informational reflecting an accurate parking count.

Ms. Dixon asked the applicant to explain the affordable housing application process.

Mr. Schrijver said the eligible applicant would need to meet income requirement thresholds.

Ms. Dixon asked who reviews the housing applications.

Mr. Schrijver said the review is conducted by an in-house leasing staff.

The Chairperson opened the public hearing.

Richard White spoke against the application.

Roy Spells spoke against the application.

Cherie Bell spoke against the application.

Martha White spoke against the application.

Sharice White spoke against the application.

Nicole Blair spoke against the application.

Kathy Lawrence spoke against the application.

Desiree LeGrand spoke against the application.

Carol Lawrence spoke against the application.

The Board held the public hearing open.

Mr. Brandt asked how this proposed building aligns with the neighboring buildings on Liberty Street.

Mr. Berg said they propose to maintain the street line on Liberty Street.

Mr. Hales asked if the proposed plans for changing street directionals was decided before creating the building design or after creating the building design.

Mr. Schrijver said fire access was the major consideration to propose a request to change street directionals.

Ms. Dixon asked to consider parking for the retail space.

Ms. Buxton agreed and asked the applicant to consider fifteen-minute parking for the retail space.

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

APPEAL NO. 2024-06

Applicant: Eulogio Santiago
Owner: 133 North Miller Realty Partners LLC
Location: 133-141 North Miller Street

Requesting an **AREA Variance** for 12,600 square feet on the minimal lot area, 10 feet on the rear yard setback and 9 off-street parking spaces, which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium-Density Residential Zone.

Eulogio Santiago and Jonathan Cella appeared before the Board.

Mr. Cella gave an overview of the proposed project.

Ms. Buxton asked if there is a rendering for review.

Mr. Cella said a rendering is forthcoming.

The Assistant Corporation Counsel said the variance request is not consistent with the Building Inspector's ruling/Informational submitted for the Board's review and does not reflect the current proposal of one Apartment House building with 9-units on one vacant lot. He said without a Building Inspector's ruling/Informational the Board could move forward with general discussion but that a vote could not be rendered.

Ms. Buxton asked to clarify that the discussion can focus on the current proposal and refer to the site plan provided.

The Assistant Corporation Counsel confirmed.

Mr. Cella said the current proposal request is for 9, three-bedroom units and reviewed the updated variance requests.

Mr. Brandt said he would prefer a front-yard setback variance, so the proposed building aligns with the neighboring properties.

Mr. Cella said the current proposal aligns with the neighboring houses.

Mr. Allen asked if they considered continuing the pattern of homes instead of constructing an apartment building.

Mr. Santiago said that consideration would not be financially feasible.

The Chairperson opened the public hearing.

Heidy Chulve spoke against the application.

The Board held the public hearing open.

Ms. Dixon asked how many stories are proposed.

Mr. Cella said three stories.

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

APPEAL NO. 2024-07

Applicant: Hector Gualpa
Owner: Great Riches Realty LLC
Location: 167 Chambers Street

Requesting an **AREA Variance** for 10 feet on the minimum front yard setback, 5 feet on the minimum south side yard setback 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.

Hector Gualpa appeared before the Board and gave an overview of the proposed project.

Ms. Buxton asked to clarify if the renovations have been completed to convert the building from a three-family to a four-family.

Mr. Gualpa said no, the current configuration is a three-family.

Ms. Dixon said that in her opinion, the submitted parking study is insufficient, as it does not provide multiple days and times for review.

The Chairperson opened the public hearing.

No one was present for or against the application.

Dianne Dixon moved to close the public hearing.
Ben Brandt seconded the motion.
The motion passed 5-1 via roll-call vote.

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

The Assistant Corporation Counsel said a vote could not be rendered on the application as the property is located 500 feet from a state roadway and is thus subject to GML §239 review.

The application was tabled until the next meeting.

APPROVAL OF MINUTES

Corey Allen moved to approve the January 2024 minutes as submitted.
Ben Brandt seconded the motion.
The motion was approved unanimously via roll-call vote.

EXECUTIVE SESSION

Dianne Dixon moved to enter into the Executive Session.
Corey Allen seconded the motion.
The motion was approved unanimously via roll-call vote.

Dianne Dixon moved to exit out of the Executive Session.
Corey Allen seconded the motion.
The motion was approved unanimously via roll-call vote.

With no further business to discuss, the meeting was adjourned at 10:34 p.m.

Respectfully submitted,

J.K. Gentile
Secretary to the Land Use Boards