

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 23, 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
Julie Lindell (arrived at 7:22 p.m.)

Absent: Melvin Hales (alternate)
Michael Papaleo

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

The Chairperson called the meeting to order at 7:13 p.m. after confirming a quorum.

OLD 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.

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

Application tabled until next meeting.

NEW BUSINESS

APPEAL NO. 2024-11

Applicant: Chris Berg, RA/Berg + Moss Architects, PC
Owner: RD 242 South William Street LLC
Location: 242 South William Street

Requesting an **AREA Variance** for:

Lot A: Requesting an **AREA Variance** for 4.9 feet on the minimum west side setback, 4.9 feet on the minimum east side setback and 6 off-street parking spaces 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 10 feet on the minimum west side setback, 10 feet on the minimum east side setback and 6 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential zone.

Lot C: Requesting an **AREA Variance** for 10 feet on the minimum west side setback, 10 feet on the minimum east side setback and 6 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential zone.

Lot D: Requesting an **AREA Variance** for 10 feet on the minimum west side setback, 10 feet on the minimum east side setback and 6 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential zone.

Lot E: Requesting an **AREA Variance** for 10 feet on the minimum west side setback, 10 feet on the minimum east side setback and 6 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential zone.

Lot F: Requesting an **AREA Variance** for 10 feet on the minimum west side setback, 10 feet on the minimum east side setback, 4.63% on the maximum lot coverage and 6 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential zone.

Lot G: Requesting an **AREA Variance** for 10 feet on the minimum west side setback, 10 feet on the minimum east side setback, 4.63% on the maximum lot coverage and 6 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential zone.

Lot H: Requesting an **AREA Variance** for 10 feet on the minimum west side setback, 7 feet on the minimum east side setback, 0.62% on the maximum lot coverage and 6 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential zone.

Dominic Moffa and Chris Berg appeared before the Board.

Mr. Berg gave an overview of the proposed project. He said this is one large lot being subdivided into eight lots.

Ms. Dixon asked if they considered reducing the number of lots and creating a parking lot.

Mr. Moffa said that option would be a financial burden and the intention is to maintain the green space in the rear yard for the tenants.

Ms. Dixon asked if the area could accommodate the requested 48 off-street parking spaces.

Mr. Berg referred to the submitted parking study.

Ms. Dixon said the evening hours reflected in the parking study, 5:30 to 6:30 p.m., do not offer an accurate reflection as most people are not home from work until later in the evening hours.

Mr. Moffa said the area is predominantly commercial space.

Ms. Buxton said the neighborhood is predominantly commercial, there are homes with garages and this property is near a public parking area.

Ms. Lindell agreed that the parking variance is not a minimal request.

Mr. Allen asked how many bedrooms per unit.

Mr. Moffa said two bedrooms per unit.

Mr. Brandt recommended moving the buildings forward to align with the neighboring lots and add more space in the rear yard. He asked if the project requires eight lots.

Mr. Moffa said yes, to be able to move the project forward financially.

Mr. Allen asked the applicant to consider designing an alleyway behind the townhouses for parking.

Mr. Brandt asked how deep the space between the porch and the rear yard is.

Mr. Berg said 180 feet.

The Chairperson opened the public hearing.

Arali Ortiz spoke against the application.

William Bollinger spoke in favor of the application.

Dianne Dixon moved to close the public hearing.

Julie Lindell seconded the motion.

The motion passed 4-2 via roll-call vote.

The Assistant Corporation Counsel said a vote could not be rendered as Planning Board sub-division determination is pending. He said the application is for presentation purposes only.

Ms. Lindell asked the applicant to consider placing parking on site.

The applicant requested a table of its application until the next meeting.

APPEAL NO. 2024-12

Applicant: Chris Berg, RA/Berg + Moss Architects, PC
Owner: Lodger 233, LLC
Location: 137 Third Street

Requesting an **AREA Variance** for 10 feet on the minimum front yard setback, 5 feet on the minimum side yard setback, 15% on the minimum 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 and gave an overview of the proposed project. He said the building footprint will not change. He said it is a conversion of a two-family dwelling to a four-family dwelling. He said the driveway is unusable given its small side.

Ms. Lindell asked if the garage was usable.

Mr. Berg said no. He said the entry is a steep drop with minimal head room.

Ms. Lindell asked what the building configuration was.

Mr. Berg said one apartment per floor.

The Chairperson opened the public hearing.

No one was 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.

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.

APPEAL NO. 2024-13

Applicant: Jonathan Moss/Berg + Moss Architects, PC
Owner: 48 Hasbrouck LLC
Location: 330 First Street

Lot A: Requesting an **AREA Variance** for 7 feet on the front yard setback, 5 feet on the side yard setback, 17% maximum lot coverage and 6 off-street parking spaces 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 7 feet on the front yard setback, 5 feet on the side yard setback, 17% maximum lot coverage and 6 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential Zone.

Chris Berg appeared before the Board and gave an overview of the proposed project. He said currently there is a beyond repair, abandoned house that the owner proposes demolishing, subdivide the lot and construct two semi-attached homes.

Ms. Lindell asked if driveways are proposed.

Mr. Berg said no.

The Assistant Corporation Counsel said a vote could not be rendered as Planning Board subdivision determination is pending. He said the application is for presentation purposes only.

The Board requested a sufficient site context map and renderings.

Ms. Lindell asked if yard space is proposed.

Mr. Berg said yes.

Mr. Brandt asked if the front yard setback will align with the neighboring properties.

Mr. Berg said the front yard setback will align with the east side.

The Chairperson opened the public hearing.

Arali Ortiz spoke against the application.
Christian Herrera spoke against the application.
John White spoke against the application.

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

The applicant requested a table of its application until the next meeting.

APPEAL NO. 2024-14

Applicant: Courtney Roberts/Empire Solar Solutions
Owner: Jose E. Mera and Lorena Gonzalez
Location: 66 Carson Avenue

Requesting an **AREA Variance** for 650 square feet on the minimum lot area, 6.5 feet on the lot width, 15 feet on the front yard setback, 10 feet on the east side yard setback, 10 feet on the west side yard setback 10.58% on the maximum lot coverage, 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.

The Assistant Corporation Counsel clarified that the off-street parking calculation is incorrect in the Informational/Building Inspector's ruling. He said the correct request is 2-off street parking spaces per dwelling unit for a total of 4 off-street parking spaces.

Courtney Roberts appeared before the Board and gave an overview of the proposed project. She said the owner is converting the property for his mother to reside in the additional unit. She said that although she submitted a parking study for review, she asked the Board to consider that the mother does not own a vehicle.

Ms. Lindell asked to confirm that the property was originally a one-family dwelling.

Mr. Roberts confirmed.

The Chairperson opened the public hearing.

No one was 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.

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. 2024-15

Applicant: Gonzalo Medina
Owner: Gonzalo Medina
Location: 171 Chambers Street

Requesting an **AREA Variance** for 10 feet on the front yard setback, 0.1 feet on the north side yard setback, 5 feet on the south side yard setback, 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.

Gonzalo Medina appeared before the Board and gave an overview of the proposed project. He said the building is already a two-family and that he is before the Board to bring the building into code compliance.

The Assistant Corporation Counsel asked if there were any changes to the building footprint.

Mr. Medina said no.

Mr. Allen asked about available parking.

Mr. Medina referred to the submitted parking study that shows available spaces on Chambers Street and multiple parking spaces on South Street.

Ms. Lindell said there are already two families living in the property so the off-street parking will not change.

The Chairperson opened the public hearing.

No one was present for or against the application.

The Board held the public hearing open.

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.

APPEAL NO. 2024-16

Applicant: Lisa Silverstone/Safe Harbors of the Hudson, Inc.
Owner: Safe William Street Partners LLC
Location: 69 William Street

Lot A: Requesting an **AREA Variance** for 300 square feet on the minimum lot area, 3 feet on the minimum lot width, 10 feet on the minimum front setback, 5 feet on the minimum north side setback, 5 feet on the minimum south side setback, 15% on the maximum 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 in the Neighborhood Commercial Overlay District zone.

Lot B: Requesting an AREA Variance for 10 feet on the minimum front setback, 5 feet on the minimum north side setback, 5 feet on the minimum south side setback, 20 feet on the minimum rear yard setback, 2 stories and 15 feet on the maximum height, and 54% on the maximum lot coverage which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium-Density Residential in the Neighborhood Commercial Overlay District zone.

Lot C: Requesting an **AREA Variance** for 7,300 square feet on the minimum lot area, 10 feet on the minimum lot width, 10 feet on the minimum front setback, 10 feet on the minimum north side setback, 10 feet on the minimum south side setback, 8% on the maximum lot coverage and 8 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium-Density Residential in the Neighborhood Commercial Overlay District zone

Lisa Silverstone, Mark Ginsberg and Joseph Frewer appeared before the Board.

Mr. Ginsberg gave an overview of the proposed project.

The Assistant Corporation Counsel said the previous owner had combined lots that historically had been three (3) lots. He said the applicant is proposing to restore the now single lot known as 69 William Street back to its previous, three (3) lot configuration.

Ms. Dixon asked to confirm that the off-street parking request is 11 spaces.

Mr. Ginsberg confirmed.

Mr. Brandt asked why Lot B is proposed as five stories.

Mr. Ginsberg said it was a decision based on what the Architectural Review Commission would consider and what would be reasonable for construction purposes.

Ms. Lindell asked if the reason to propose such a large building is based on hardship.

Mr. Frewer said the financing is a large component to consider. He said they will be applying for Home Community Renewal subsidies that require a certain number of units.

Ms. Lindell said that the building feels too large for the neighborhood.

Mr. Allen said the Board has approved other large buildings in the neighborhood that require significant variance requests.

Ms. Dixon said the cumulative effect that the prior approvals have on the impact of the neighborhood is a significant consideration.

Ms. Silverstone said a certain number of units is required for funding.

Ms. Lindell asked if a less dense neighborhood was considered.

Ms. Silverstone said they chose this available property to help revitalize this neighborhood and Safe Harbors is a local, available organization to do so.

Ms. Lindell asked if there are plans for a parking lot.

Ms. Silverstone said no. She referred to the submitted parking study that demonstrated available parking and includes the Ann Street public parking lot. She said approximately fifteen percent of the population Safe Harbors serves will have cars.

Mr. Brandt said five stories is too tall for the neighborhood.

Mr. Allen said the ZBA had approved the five story 191 Washington Street project.

Mr. Ginsberg said the 4th floor of the building has a proposed mansard roof and the 5th floor is set back from the street which assists in minimizing the bulk.

Mr. Frewer said the building backs up to the cemetery in the rear. He said there is no rear building that would have this building obstructing a view.

Ms. Lindell asked if there is available green space.

Mr. Ginsberg said yes and used the site plan to demonstrate where the green space is located.

The Chairperson opened the public hearing.

Harold Boro spoke in favor of the application.

William Bollinger spoke in favor of the application.

Drew Kartiganer spoke against the application.

Corey Allen moved to close the public hearing.

Julie Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Mr. Allen asked the Board to consider all the previous applications that have recently been approved.

Ms. Lindell said she has a concern regarding the height of the building.

Ms. Buxton said she has a concern regarding the height of the building.

The application was tabled until the next meeting.

APPEAL NO. 2022-29

Applicant:	Colin Jarvis/Newburgh Ministry
Owner (17 Johnston Street):	City of Newburgh
Owner (19 Johnston Street):	The Newburgh Ministry, Inc.
Locations:	9 Johnston Street, 17 Johnston Street and 19 Johnston Street

Requesting an **AREA Variance** on **Lot A** for 7.9 feet on the front yard setback, 5 feet on the South side yard setback, 15.7 feet on the rear yard setback, 2 stories/13.5 feet on the building height and 35% on lot coverage which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

Requesting an **AREA Variance** on **Lot B** for 7.6 feet on the front yard setback, 5 feet on the North side yard setback, 5 feet on the South side yard setback, 20 feet on the rear yard setback and 56% on lot coverage which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

Colin Jarvis, Don Petruncola and John Furst, Esq. appeared before the Board.

Mr. Furst, Esq. said the ZBA denied the Newburgh Ministry's previous variance requests. He said the Newburgh Ministry filed an Article 78 proceeding. He said rather than litigate, the parties both chose to reconsider the variance application as though it were a new application. He said the Ministry's current proposal reduces the building height by three feet. He reviewed the area variance criteria in the City Code.

Mr. Petruncola gave an overview of the proposed changes to the building's design and height modification. He said they modified the structural system to reduce the height. He said they are improving what currently exists. He said the building fits within the neighborhood and is compatible with the 9 Johnston Newburgh Ministry property.

Mr. Jarvis said this expansion will further enhance the services in the community.

The Assistant Corporation Counsel encouraged the Board to only consider the area variance criteria of the City Code

Mr. Allen asked how the three feet reduction affects the unit space.

Mr. Petruncola said the new block and plank structure proposed, instead of the steel structure, will not affect the habitable space, just the floor-to-floor height.

Ms. Dixon said since the existing buildings will be demolished, she questioned why a new construction that conforms to the City Code could not have been considered. She said the limitations of a funding source does not aide in a self-created hardship constraint.

Ms. Lindell said height is not a criteria for a self-created hardship.

Ms. Buxton said to consider that it makes good business sense for the Newburgh Ministry to expand on what they already have in the area.

Mr. Furst said regarding height, the ARC has reviewed and approved the building height.

Mr. Brandt said the ARC has their own basis of determination that they review for approval.

Mr. Furst disagreed, as one of the Zoning Board criteria is to consider is how the building fits into the community character.

Mr. Allen said the ARC is a separate Board.

The Assistant Corporation Counsel said multiple statements can be true in the consideration. He said each land use board has their own set of criteria to review for considerations. He said sometimes there are overlaps in the items that each board should consider.

Mr. Petruncola said the Newburgh Ministry has been in the same location for 30 years. He said the Newburgh Ministry would not want to place the housing in a location away from the services.

Mr. Brandt said the massing of a five-story building on its own is out of character with the neighborhood.

Ms. Buxton said to consider the proximity to Broadway where there are a multitude of five-story buildings.

Mr. Furst read from City Zoning Code, Article 8.

Mr. Petruncola said the proposed building was reduced from six stories to five stories per ARC review.

The Chairperson opened the public hearing.

Ali Muhammed spoke in favor of the application.

Josiah Landers spoke in favor of the application.

Andrei Niles spoke in favor of the application.

Drew Kartiganer spoke against the application.

Abaigael Andersen spoke in favor of the application.

Jeffrey Woody spoke in favor of the application.

James Monk spoke in favor of the application.

Marcos Campos spoke in favor of the application.

Sister Norma Carney spoke in favor of the application.
Mary Ann Rothstein spoke in favor of the application.
Glynnis Hey spoke in favor of the application.
Harold Boro spoke in favor of the application.
Sarah Mazzetti spoke in favor of the application.
Erendira Lecama spoke in favor of the application.
LaJuan Bethune spoke in favor of the application.
Joan Birdsall spoke in favor of the application.
Mary Ellen Straebler spoke in favor of the application.
Natalys Kavallaris spoke in favor of the application.

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

Mr. Furst said ineligible hardship is not required for an area variance, it is just one of the factors and it does not preclude the Zoning Board from granting a variance. He said with respect to the community character, the ARC and Planning Board considered the community character impacts as part of their findings for approval.

Mr. Petruncola said the funding requires community and support spaces that will be placed in the basement to not reduce space and unit count. He said the front yard setback matches the streetscape standards of the existing buildings on the street.

Corey Allen moved to approve the application as submitted.
Julie Lindell seconded the motion.
The motion passed 4-2 via roll-call vote.

APPROVAL OF MINUTES

Dianne Dixon moved to approve the February 2024 minutes as submitted.
Julie Lindell seconded the motion.
The motion was approved unanimously via roll-call vote.

With no further business to discuss, the meeting was adjourned at 10:20 p.m.

Respectfully submitted,

J.K. Gentile
Secretary to the Land Use Boards