

PLANNING BOARD MEETING

The City of Newburgh Planning Board meeting was held on Tuesday, April 17, 2018
at the Activity Center, 401 Washington Street, Newburgh, NY 12550

Members Present: Lisa Daily, Chairperson
Lillian Burgarelli
Alicia Ware
Duane Ware
Heather Moore
Sarah Hooff

Members Excused: Argelia Morales
Kent Diebolt (Alternate)

Also Present: Alexandra Church, City Planner
Jason Morris, City Engineer
Jeremy Kaufman, Assistant Corporation Counsel
Omar E. Balbuena-Palma, Land Use Board Secretary

The meeting was called at 7:30 p.m. after a quorum was confirmed.

The Chairperson spoke briefly on Mayor Kennedy's recent passing and expressed condolences to the Mayor's family. She said a service for Mayor Kennedy would be held on April 19, 2018 at the Armory.

APPROVAL OF MINUTES

Lillian Burgarelli moved to approve the minutes of the March board meeting.
Heather Moore seconded the motion.

The motion carried unanimously.

OLD BUSINESS

Index No. 2017-05

Location: 136 Lake Street
Owner: Lakeside Plaza Associates, L.L.C
Applicant: Aleza Morgan & Carey Lewis

SITE PLAN to change the use of the building to a Restaurant/Bar.

The Informational Inspection Report of the Building Inspector and the comment letters of the City Planner and Orange County Department of Planning were made a matter of record.

DISCUSSION BY THE BOARD

Jonathan Cella, Project Engineer, Aleza Morgan, Applicant, and Oneill Taylor appeared before the Board.

The Project Engineer gave a brief review of the project. He said there are no proposed changes to any portion of the building footprint and the intent is to use the space as a Restaurant and Bar. He said the application required review by the Conservation Advisory Council ("CAC") and GML §239. He said the revised hours of operation are:

Monday, Wednesday, Thursday, Sunday	12:00 p.m. - 12:00 a.m.
Tuesday, Friday, Saturday	12:00 p.m. - 2:00 a.m.

The City Planner confirmed the application requires GML §239 review and review by the CAC. She said the Orange County Department of Planning has no comments on the application. The CAC did not submit a comment letter and more than 30 days have elapsed since the application was referred to the CAC.

The City Engineer confirmed that there will be no exterior changes. Thus, he had no comments on the application.

Ms. Burgarelli asked if grease traps will be installed and if the proposed use involves music or dancing.

The City Engineer said the Applicant will need to install grease traps as mentioned in the Informational Report and as a requirement to obtain a building permit.

Ms. Daily asked if the Applicant has a liquor license.

The Applicant said she will obtain the liquor license and is planned to include musical entertainment, including singing/dancing at a later date.

Ms. Hoof requested the implications of adding "Cabaret" to the Site Plan application.

The Assistant Corporation Counsel said this was the first time the Applicant mentioned having a singing/dancing/music venue throughout the process. He said the Code makes a distinction between aa Restaurant or Bar, which are allowed pending Site Plan approval from the Planning Board, and Cabaret, which is allowed pending Special Use Permit approval from the Planning Board.

Ms. Burgarelli said the Applicant could either modify the current application to include a Cabaret or request an amendment of her application at a later date.

Ms. Daily read the Informational Report and highlighted the following:

- Restaurant/Bar is allowed pending Site Plan approval from the Planning Board
- All Bulk Area requirements are deemed met by the applicant
- Uses that may introduce fats, oil and/or grease into the City's sewer system from food preparation, cooking, and/or dish washing proposed onsite will require grease traps
- Food Service Establishments must be licensed and inspected by the Orange County Department of Health.

- Establishments that serve alcohol must obtain a license from the New York State Liquor Authority

The Assistant Corporation Counsel said that activities related to musical entertainment, singing or dancing on the premises (i.e. Cabaret) require a Special Use Permit, which among other things, would require a mandatory public hearing. He also advised that the current application could be considered a Type II action pursuant to SEQRA.

The Applicant said she is eager to begin interior work and requested a vote for Site Plan approval on the Bar/Restaurant only. She said she would submit a separate request for a Special Use Permit at a later date.

Mr. Ware said 136 Lake Street is in a strip mall and far from residential buildings. He said he does not believe a public hearing is necessary.

Heather Moore moved to waive the public hearing.

Sarah Hooff seconded the motion.

The motion carried unanimously.

Lillian Burgarelli moved to declare the action a Type II action under SEQRA.

Alicia Ware seconded the motion.

The motion passed unanimously via roll call vote.

Sarah Hooff moved to approve the Site Plan application as submitted.

Alicia Ware seconded the motion.

The motion passed unanimously via roll call vote.

NEW BUSINESS

Index No. 2017-36

Owner: Cesar Grados
Applicant: Jonathan Cella
Location: 13 Mill Street

SITE PLAN to create an indoor Soccer field (Activity Facility)

The Informational Inspection Report of the Building Inspector and the comment letter of the City Planner were made a matter of record.

DISCUSSION BY THE BOARD

Jonathan Cella, Project Engineer, Cesar Grados, Owner/Applicant, and Cesar Grados Jr., Owner's son, appeared before the Board.

The Project Engineer said the Owner is proposing to create an indoor Soccer field (deemed an Activity Facility by the Building Inspector) at 13 Mill Street. He gave a brief background of the application and said the original intent involved a family-oriented party space (deemed an Assembly Hall by the Building Inspector) on the weekends; but after several meetings before the Zoning Board of Appeals, the Assembly Hall use variance was denied. He said the project received

the appropriate area variances for the Activity Facility and the Owner is now requesting Planning Board Site Plan approval.

He said there are no proposed exterior changes, but the Activity Facility requires an additional means of egress that the Owner will address.

The City Planner said Site Plan approval by the Planning Board is required per the Zoning Enforcement Officer's Informational Report and confirmed the use variance for Assembly Hall was denied by the Zoning Board of Appeals on February 27, 2018. She said 13 Mill Street is adjacent to, but not within the boundaries of the East End Historic District. She clarified that the Activity Facility requires Site Plan approval by the Planning Board and the action is an unlisted action under SEQRA and does not required review by the CAC or the Orange County Department of Planning.

The City Engineer confirmed that there will be no changes to the building footprint. Thus, he had no comments on the application.

The Assistant Corporation Counsel said the Building Inspector determined a secondary means of egress is required for the property due to the allowable maximum occupancy. He said the building is a zero lot-line building and the secondary means of egress would encroach onto the adjacent church property. He said the Owner is required to submit at least a permission letter from an authorized representative of the church that allows egress on church property, but the better course would be to obtain an easement assure that access would not be revoked later. He said City Staff recommends not to approve the Site Plan application until the Owner addresses th egress issue.

Ms. Ware requested the hours of operation.

The Owner's son said the hours of operation for the Activity Facility would be:

- Monday – Thursday 4:00 p.m. - 10 p.m.
- Friday & Saturday 4:00 p.m. - 12:00 a.m.

He said the egress letter will be submitted for review in the coming week. He said the soccer field is intended for training purposes only.

Ms. Burgarelli clarified that parking is not part of the Board's consideration.

She said the neighbors should be notified of the Owner's intent and it would give the Planning Board a chance to address their concerns.

The Project Engineer said the requested use of the building was permitted under the old zoning code via a Special Use Permit from the Planning Board when the Owner purchased the property.

The Owner said the business operated for several years before the permit expired and he did not receive a complaint from the neighbors. He said the soccer field is already installed.

Ms. Burgarelli confirmed the Special Use Permit expired the previous year and that the neighbors were aware of the soccer field.

Mr. Ware said in light of that information, he doesn't believe a public hearing is warranted.

Alicia Ware moved to schedule a public hearing at the May 15, 2017 Planning Board meeting. Lillian Burgarelli seconded the motion.

The motion was defeated unanimously via roll call vote.

Heather Moore moved to declare Lead Agency pursuant to SEQRA.
Lillian Burgarelli seconded the motion.
The motion carried unanimously.

Heather Moore moved to issue a Negative Declaration pursuant to SEQRA.
Lillian Burgarelli seconded the motion.
The motion carried unanimously.

Ms. Hooff confirmed the soccer field is already installed and clarified that the Owner will not be able to operate until the egress issued is resolved and the permission letter is deemed satisfactory to City Staff.

Ms. Hoof moved to approve the Site Plan application subject to the following conditions:

1. The Applicant shall satisfy all comments set forth in the Informational Inspection Report of the Building Inspector dated September 6, 2017, revised November 29, 2017, and comments of the City Planner, dated April 3, 2018 and April 17, 2018.
2. The Applicant shall receive, in a manner and form acceptable to City staff, a document (e.g. permission letter, license, easement) from the neighboring church that permits a secondary means of egress from the Premises

Lillian Burgarelli seconded the motion.
The motion passed unanimously via roll call vote.

With no further business to discuss, the meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Omar E. Balbuena-Palma,
Secretary to the Land Use Boards