CITY OF NEWBURGH Lisa Daily, Chairperson
PLANNING BOARD Omar E. Balbuena-Palma, Secretary
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# PLANNING BOARD MEETING

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

Members Present: Lisa Daily, Chairperson
Argelia Morales
Lillian Burgarelli
Heather Moore
Sarah Hooff

Members Absent: Alicia Ware
Duane Ware

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

The meeting was called at 7:32 p.m. after a quorum was confirmed.

## APPROVAL OF MINUTES

Lillian Burgarelli moved to approve the minutes of the June board meeting.
Argelia Morales seconded the motion.

The motion carried unanimously.

## OLD BUSINESS

### Index No. 2018-04

**Location:** 2 Liberty Street
**Owner:** John Bonhomme
**Applicant:** John Bonhomme

**SITE PLAN** to create a restaurant/bar in the first floor and residential units in the second and third floors

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

John Bonhomme, Property Owner, appeared before the Board. The Owner gave a brief review of the project and said the Planning Board moved to schedule a public hearing for the July 17, 2018 meeting. He said that he was unable to fund the cost of the public hearing requirements for July. He requested the Board to re-consider a vote to waive the public hearing.

Ms. Burgarelli asked why the Owner could not meet the public hearing requirements.

The Owner said the costs of the project have questioned his business partners desire to move forward.

The Assistant Corporation Counsel clarified the cost of the public hearing is at the applicant's expense. He said the motion to waive the public hearing at the previous Board meeting was defeated 3-2 and the Board may consider the Applicant's request to take a new vote to waive the public hearing, or rest on its previous decision.

Ms. Hooff and Ms. Morales said they are concerned with the neighbor's reaction to the bar.

Ms. Moore said she does not want to limit the public's ability to comment on the application.

Ms. Burgarelli said the project will affect the surrounding neighbors and they should have a chance to comment on the application.

The Owner said the building across the street is an abandoned school and the property to the rear is a parking lot he owns. He said the project would help revitalize the neighborhood.

Ms. Daily confirmed the project will not involve exterior changes. She said the Owner must return for any exterior modifications/additions and the Board may then vote to hold a public hearing at that time.

The City Engineer said, based on the Applicant's representation of no exterior site work, he would recommend waiving site plan requirements.

The City Planner said she has no new comments.

The Assistant Corporation Counsel said the project is in the East End Historic District and any exterior changes are subject to a public hearing by the Architectural Review Commission ("ARC"). He said the Owner is not proposing any exterior work.. He said the Owner must return to the Planning Board if he wishes to expand the use to include the garden. He said the Board may not place conditions on the approval because it is not a Special Use Permit application. However, he said the Board may request additional information or require additional detail prior to issuing a decision.

Heather Moore moved to waive the public hearing.
Sarah Hooff seconded the motion.
The motion passed 5-0.

Sarah Hooff moved to declare the Planning Board's as Lead Agency pursuant to SEQRA.

Lillian Burgarelli seconded the motion.
The motion passed 5-0.

Heather Moore moved to issue a Negative Declaration pursuant to SEQRA.
Argelia Morales seconded the motion.
The motion passed 5-0.

Heather Moore moved to waive the Site Plan requirements under the City Code.
Argelia Morales seconded the motion.
The motion passed 5-0.

Sarah Hooff move to approve the Site Plan application as submitted.
Argelia Morales seconded the motion.
The motion passed 4-0 via roll-call vote.
Lillian Burgarelli abstained

**Index No. 2018-03**

**Location:** 2 Nicoll Street
**Owner:** Joseph & Maureen Darmetko
**Applicant:** Joseph & Maureen Darmetko

**SITE PLAN** to install a pool.

The Informational Inspection Report of the Building Inspector and the comment letters of the City Engineer, City Planner, Conservation Advisory Council ("CAC") and the New York State Department of Environmental Conservation ("NYSDEC") are to be made a matter of record.

DISCUSSION BY THE BOARD

Joseph and Maureen Darmetko, Property Owners, appeared before the Board. Mr. Darmetko said the intent is to install an in-ground pool at the rear of the property.

The City Planner said she has no new comments.

The City Engineer said the submitted plan is not signed and sealed. He said the Owner should submit a signed and sealed survey with the sewer easement staked out by a New York State-licensed land surveyor prior to the commencement of construction and a note to this effect must be added to the final Site Plan.

The Assistant Corporation Counsel said the project is within the Waterbody Protection Overlay Zone ("WPO") and a site plan is required. He said the State Historic Preservation Office ("SHPO") did not respond to the Board's lead agency letter. The NYSDEC's response was included in the Board's materials. The Board may now vote on the application. He reminded the Board that the Owner was made aware to submit a detailed map of the pool's location and the risks associated with an inaccurate survey.

Ms. Daily asked why the updated survey was not provided.

Mr. Darmetko said he has a land surveyor available to provide a map but he is contemplating the exact size of the pool because of pricing options. He requested a conditional approval based on a buffer area to the City easement.

The Assistant Corporation Counsel said a compromise solution could be for the Owner to provide a maximum build zone for the pool and adjust the pool size later within that zone. He said the concern lies with the exact location of the build zone for the pool relative to the City's the sewer line.

Ms. Hooff and Ms. Daily said they are hesitant to approve a site plan without an updated survey and exact specifications on the location area of the pool.

Mr. Darmetko said he understands the concern and agreed to submit an updated survey.

Lillian Burgarelli moved to declare the application a Type II action under SEQRA
Heather Moore seconded the motion.
The motion passed 5-0.

The application was tabled and the Owner was informed to submit a revised survey.

## NEW BUSINESS

**Index No. 2018-07**

**Location:** 109 S. William Street
**Owner:** BOM Newburgh, LLC
**Applicant:** BOM Newburgh, LLC

**SITE PLAN** to redevelop a vacant warehouse for mixed use, with ground floor use as a Restaurant,; first floor use as Professional Office, and the second floor use as up to eight residential units Apartment House.

The Informational Inspection Report of the Building Inspector and the comment letters of the City Engineer and City Planner are to be made a matter of record.

DISCUSSION BY THE BOARD

Joshua E. Mackey, attorney from Mackey Butts & Wise, appeared before the Board on behalf of the Property Owner with Sisha Ortuzar, Caleb Mulvena and Neena Verma.

Mr. Mackey said the purpose of the meeting is to present an overview of the project, schedule a public hearing, and receive feedback/comments from the Planning Board.

Ms. Verma gave a brief overview of the project and highlighted the following:
- Ground floor use will be a restaurant, the first floor will be professional offices, and the second floor will be apartments for seven (7) residential units
- Existing storefront will be renovated and kept as entrance
- Suspended non-functioning pipe will be kept if possible

- Elevator shaft will be renovated
- Signage will be added
- Storefront window panels will be installed for natural lighting and additional windows to meet the Fire Code
- Application underway with ARC for exterior work
- Eighteen (18) parking spaces are available, with standard zoning calculations set at approximately thirteen (13) parking spaces
- Atrium will feature double height roof

Ms. Moore confirmed the residential units will be approximately 800 sq. ft. each

Ms. Burgarelli confirmed the two entry doors and parking lot will have lighting.

Ms. Hooff asked whether warmer lightning colors and screens were possible.

Ms. Morales confirmed the parking lot will be secured with a code/key for access.

Ms. Hooff suggested permeable pavement for the parking lot.

The City Planner said the project is in the Downtown Neighborhood Zone. It does not require GML §239 review or review by the CAC. She said the Board should determine whether the number of parking spaces is adequate for the use, because the Board has discretion to set the number of required parking spaces for the project. She said standard calculations require approximately thirteen (13) parking spaces. She also said the Board should review §300-153 for the sign standards within the form based code.

The Assistant Corporation Counsel said the Board should give feedback to the Applicant on any Site Plan detail concerns. He also confirmed with the Applicant that the Applicant welcomed a public hearing for the August meeting.

Lillian Burgarelli moved to schedule a public hearing at the August Planning Board meeting.
Heather Moore seconded the motion.
The motion carried unanimously.

Ms. Burgarelli asked if the parking spaces were assigned to apartment renters, or to be used for the offices and/or restaurant space. Mr. Ortuzar said they are still reviewing options.

Ms. Hoof said the Applicant should look into deleting five (5) of the parking spaces and converting that area into more green space.

Ms. Burgarelli confirmed the roof will not be used as floor space.

Ms. Morales said additional lighting should be provided on the exterior. She was concerned with the parking impact on the neighborhood.

Mr. Ortuzar said he does not foresee the restaurant as an attraction, but rather a simple place for local residents to get a quick bite to eat..

The application was tabled and the Applicant was informed to contact the Planning Board Secretary to meet the public hearing requirements.

**Index No. 2018-08**

**Location:** 120 Front Street
**Owner:** JOSCOS INC
**Applicant:** JOSCOS INC

**SITE PLAN** to expand the Restaurant use and construct an indoor/outdoor eating area.

John Fuller appeared before the Board representing the Property Owner. He gave a brief history of the project and highlighted the following:

- The previously approved site plan (for catering facility) was not implemented because of workforce-related issues
- Outdoor eating area proposed to replace previous catering area
- Kitchen area with bathrooms will be constructed on a portion of the existing parking lot
- Outdoor tables and chairs will be added
- Sufficient parking spaces available for use despite reduction of parking area
- No change to existing eating area
- Stone retaining walls erected for security

The City Planner said the expansion of the use is subject to Site Plan approval by the Board. The action is Type II pursuant to SEQRA. She said the property is within the Planned Waterfront Development Zone ("WPO"), the Local Waterfront Revitalization Program ("LWRP") and the project should be referred to the CAC and County for separate review. She said the project is within the 100-year flood plain and the Planning Board should review City Code §175 and determine if application of the remedies detailed in that Chapter, especially the requirement for a floodplain development permit, mitigates any potential environmental impacts. She said the project does not meet the area requirements of the bulk table and will need apply to the Zoning Board of Appeals ("ZBA") for area variances.

The City Engineer said the Applicant should provide water and sewer connections on the site plan and a grease trap for the kitchen area. He said the City easement is under review to clarify whether the proposed seating area is permissible. He said traffic arrows and signage should be added and a floodplain development permit is required.

The Assistant Corporation Counsel said the old Site Plan approval has expired. The current application is considered new and thus subject to the current zoning code/requirements. He said the Planning Board should review the comments by City staff and determine whether to schedule a public hearing.

Ms. Hooff said there are not many neighbors in the area and did not feel like a public hearing was necessary.

Ms. Burgarelli clarified that the retaining wall will be at guardrail height and separate the dining area from the parking lot.

Lillian Burgarelli moved to waive the public hearing.
Heather Moore seconded the motion.
The motion passed 5-0

The Applicant was informed to attend the next ZBA meeting, submit a revised site plan and attend the next Planning Board meeting.

**Index No. 2018-09**

**Location:** 54 Henry Avenue
**Owner:** Rebecca Devlin
**Applicant:** Rebecca Devlin

**SITE PLAN** to change the use of an existing building from a two-family dwelling into a three-family dwelling.

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

DISCUSSION BY THE BOARD

Rebecca Devlin, Property Owner, appeared before the Board. She gave a brief overview of the project and said the intent is to change the use from a two (2) family dwelling into a three (3) family dwelling. She said there are no proposed exterior changes and the work will all be interior.

The City Planner said the existing Certificate of Occupancy is for a two (2) family dwelling with the top floor to remain vacant. She said the change in use is allowed with Site Plan approval by the Planning Board. She said the action is a Type II action under SEQRA. The project is not subject to CAC or GML §239 review.

The Assistant Corporation Counsel said the property was previously listed in the Orange County property file and sold as a three (3) family dwelling in 2011.

The City Engineer said he has no comments on the application and recommended waiving the site plan requirements.

Ms. Burgarelli clarified that the site plan would show additions to the building and a plan view of improvements to the land. She confirmed it would not show exterior repairs such as window replacements.

Heather Moore moved to waive the public hearing.
Argelia Morales seconded the motion.
The motion passed 5-0.

Heather Moore moved to declare the application a Type II action under SEQRA
Argelia Morales seconded the motion.
The motion passed 5-0.

Argelia Morales moved to waive the Site Plan requirements under the City Code.

Heather Moore seconded the motion.
The motion passed 5-0.

Lillian Burgarelli move to approve the Site Plan application as submitted.
Argelia Morales seconded the motion.
The motion passed unanimously via roll-call vote.

**Index No. 2018-10**

**Location:** 138 South Street
**Owner:** 138 South Street LLC
**Applicant:** 138 South Street LLC

**SITE PLAN** to convert the existing first floor into a Restaurant, Carry-Out

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

DISCUSSION BY THE BOARD

Kamil Falkowski, Applicant, appeared before the Board. He gave a brief overview of the project. He said the intent is to open a pizza shop at 138 South Street. He said the building, prior to being vacant, appeared to be fitted as a pizza shop on the first floor of the building. He said he intended to reopen the business mostly for carryout pizza.

The City Planner said the property is in the Medium Density Residential Zone and the use is allowed with Site Plan approval by the Planning Board. She said the action is a Type II action under SEQRA. The action is not subject to CAC or GML §239 review.

The City Engineer said he has no comments on the application and recommended waiving the site plan requirements.

Sarah Hooff confirmed the second floor will be a residential unit and asked for the commercial impact on the neighborhood.

The Owner said the nearest commercial building is Blac Vanilla and the neighborhood has several vacant buildings. He said the intent is to help revitalize the neighborhood with the pizza shop.

Lillian Burgarelli moved to waive the public hearing.
Sarah Hooff seconded the motion.
The motion passed 5-0.

Heather Moore moved to declare the application a Type II action under SEQRA.
Argelia Morales seconded the motion.
The motion passed 5-0.

Sarah Hooff moved to waive the Site Plan requirements under the City Code.
Argelia Morales seconded the motion.
The motion passed 5-0.

Argelia Morales move to approve the Site Plan application as submitted.
Lillian Burgarelli seconded the motion.
The motion passed 5-0.

**Index No. 2018-11**

**Location:** 46 William Street
**Owner:** Jaber Nidal
**Applicant:** Owen Thomas

**SITE PLAN** to change the use of the building into a Restaurant Carry-Out.

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

DISCUSSION BY THE BOARD

Owen Thomas, Applicant, appeared before the Board with Suzan Mckenzie. The Applicant said the intent is to open a Jamaican restaurant and said there are no proposed changes to the exterior, except for a sign. He said the business would be a carryout restaurant with a seating area for approximately fifteen (15) people.

Ms, Mckenzie said a sign will be added to the building.

Ms. Heather Moore confirmed the building is not currently a restaurant.

Ms. Hooff confirmed that the use will not interfere with the remaining two (2) suites within the building.

The City Engineer said there are no proposed exterior changes and recommends waiving the site plan requirements.

The City Planner said the proposed use is allowed with Site Plan approval by the Planning Board. She said the action is a Type II action under SEQRA. The application is not subject to CAC or GML §239 review.

The Assistant Corporation Counsel clarified that the Board granted a Special Use Permit to a different applicant at 46 William Street in a different suite of the building. He said this application is not related to that project. He said the current Applicant will need to submit an application to the ZBA for the applicable area variances and submit an ARC application for the sign.

Ms. Morales confirmed the hours of operation will be from 7:00 a.m. to 10:00 p.m.

Ms. Moored confirmed there is no backyard.

Argelia Morales moved to waive the public hearing.
Heather Moore seconded the motion.
The motion passed 5-0.

Heather Moore moved to declare the application a Type II action under SEQRA
Argelia Morales seconded the motion.
The motion passed 5-0.

Heather Moore moved to waive the Site Plan requirements under the City Code.
Argelia Morales seconded the motion.
The motion passed 5-0.

Heather Moore move to approve the Site Plan application as submitted.
Argelia Morales seconded the motion.
The motion passed unanimously via roll-call vote.

With no further business to discuss, the meeting was adjourned at 10:00 p.m.

Respectfully submitted,

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