

PLANNING BOARD MEETING

The City of Newburgh Planning Board meeting was held on Tuesday, December 19, 2017 in the Activity Center, 401 Washington Street, Newburgh, NY 12550

Members Present: Lisa Daily, Chairperson
Lillian Burgarelli
Argelia Morales
Alicia Ware
Duane Ware
Kent Diebolt (Alternate)

Members Excused: Heather Moore (Alternate)

Also Present: Jason Morris, City Engineer
Alexandra Church, City Planner
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.

APPROVAL OF MINUTES

Kent Diebolt moved to approve the minutes of the November Board meeting. Argelia Morales seconded the motion.

The motion was carried unanimously.

PUBLIC HEARING

INDEX NO. 2017-33 SITE PLAN to convert the existing building into a two-family residence.

Location: 28 Hasbrouck Street

Owner/ Applicant: 28 Hasbrouck Realty Partners LLC. / Jonathan Cella

INDEX NO. 2017-34 SITE PLAN to convert the existing building into a two-family residence.

Location: 42 Hasbrouck Street

Owner/ Applicant: 42 Hasbrouck Realty Partners LLC. / Jonathan Cella

INDEX NO. 2017-35 SITE PLAN to convert the existing building into a two-family residence.

Location: 53 Hasbrouck Street

Owner/ Applicant: 53 Hasbrouck Realty Partners LLC. / Jonathan Cella

The Chairperson called all three (3) applications at the same time.

The Informational Inspection Reports of the Building Inspector, and the comment letters of the City Engineer and the City Planner for all three (3) projects were made a matter of record.

DISCUSSION BY THE BOARD

Jonathan Cella, Applicant, and Eulogio Santiago, member of each LLC (28 Hasbrouck Street Partners LLC, 42 Hasbrouck Street Partners LLC, and 53 Hasbrouck Street Partners LLC), appeared before the Board. The Applicant gave a brief background of each of the projects, which were substantially the same in all three (3) applications. He said the previous Certificates of Occupancy were all lost due to the buildings' extended vacancy. The owner intends to repair the buildings and convert each into two-family residences. He said the projects were granted the appropriate Area Variances from the Zoning Board of Appeals on November 28, 2017 and they are now requesting Site Plan approval from the Planning Board.

Alicia Ware moved to open the public hearing. Argelia Morales seconded the motion. The public hearing was opened.

Suzanne Timmer, 41 Hasbrouck Street, spoke against the application. She said parking on the street is not sufficient for the current residents. She said she appreciates the Owner's intention but she is concerned that there will be no available parking spaces once the remaining vacant buildings are also renovated.

Elsworth Banks, 34 Hasbrouck Street, spoke against the application. He said parking availability is scarce and would like the Planning Board to address the issue.

Chuck Thomas, 227 Montgomery Street, spoke against the application. He said parking is a real concern for residents throughout the City of Newburgh and that the City should establish a parking plan to address the issue. He said a lot of thought went into rezoning the City and adding extra units is not in the best interest of the City. He said autonomous ride-sharing vehicles could mitigate the impact on parking and the buildings should be owner-occupied.

Susan Timmer, 41 Hasbrouck Street, added that owner-occupied buildings are important for the neighborhood's stability and that due to the parking impact, long-time residents are moving out.

Duane Ware moved to close the public hearing. Lillian Burgarelli seconded the motion. The public hearing was closed.

The City Planner said the use is allowed pending site plan approval by the Planning Board. She said that it does not require CAC or GML §239 review. She said that all three properties are within 500 feet of the former Provan Ford environmental remediation project at 210 Mill Street. She said the remediation has been completed, and there is no association of that site with 28, 42, or 53 Hasbrouck Street.

The Assistant City Engineer said he has no comments on the application and confirmed with the owner that the footprint of the buildings will not change. He recommended waiving site plan approval.

Ms. Burgarelli asked how the owner is going to address the parking scenario and if this will set a precedent.

Ms. Ware said that parking is difficult in that neighborhood.

The Assistant Corporation Counsel clarified an earlier comment by the Applicant. After a period of extended vacancy and a zoning law change, the buildings – previously approved as 2-family residences –reverted to the most restrictive use. The Owner intends to change them back to a two-family dwelling. He said that the Zoning Board of Appeals already reviewed the applications for off-street parking and setbacks and granted those variances. He said off-street parking is not for consideration by the Planning Board in these applications. The Planning Board needs to consider whether the change of use and submitted site plan materials are acceptable. He said that “precedent” is a guidance tool for future applications, but that “precedent” does not bind the Planning Board into future decisions. He clarified that a variance for off-street parking does not mean the Applicant will have reserved parking spaces on the street.

Mr. Ware said that all residents from the City of Newburgh have a difficult time finding parking.

Ms. Daily confirmed that the action is a Type II action under SEQRA.

With respect to Application 2017-33 (28 Hasbrouck Street):

Lillian Burgarelli moved to declare the application a Type II action under SEQRA.
Argelia Morales seconded the motion.
The motion carried unanimously.

Argelia Morales moved to waive the Site Plan requirements under the City Code.
Duane Ware seconded the motion.
The motion passed unanimously via roll call vote.

Argelia Morales moved to approve the Site Plan application as submitted.
Duane Ware seconded the motion.
The motion carried 5-0
Lillian Burgarelli abstained.

With respect to Application 2017-34 (42 Hasbrouck Street):

Lillian Burgarelli moved to declare the application a Type II action under SEQRA.
Argelia Morales seconded the motion.
The motion carried unanimously.

Argelia Morales moved to waive the Site Plan requirements under the City Code.
Duane Ware seconded the motion.
The motion passed unanimously via roll call vote.

Argelia Morales moved to approve the Site Plan application as submitted.
Duane Ware seconded the motion.
The motion carried 5-0
Lillian Burgarelli abstained.

With respect to Application 2017-35 (53 Hasbrouck Street):

Lillian Burgarelli moved to declare the application a Type II action under SEQRA.
Argelia Morales seconded the motion.
The motion carried unanimously.

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

Duane Ware seconded the motion.

The motion passed unanimously via roll call vote.

Argelia Morales moved to approve the Site Plan application as submitted.

Duane Ware seconded the motion.

The motion carried 5-0

Lillian Burgarelli abstained.

OLD BUSINESS

INDEX NO. 2017-18 SUBDIVISION to divide 18 existing tax parcels to 36 lots.

Location: Along Morris Ave. between Hawthorne Ave. and Orchard St.

Owner/ Applicant: Ionic Properties, LLC / Dimitri Zahariadis

The comment letters of the CAC, City Engineer, City Planner, and the Orange County Department of Health were made a matter of record.

DISCUSSION BY THE BOARD

John Queenan, P.E., from Lanc & Tully Engineering P.C., appeared before the Board on behalf of the Applicant. He gave a brief overview of the project and highlighted the following:

- The project received preliminary plat approval from the Planning Board on November 21, 2017
- The project received the Department of Health Certificate of Approval.
- A revised bond amount was submitted for approval by the City Council.

He requested final approval by the Planning Board.

The City Planner said she has no outstanding comments on the application.

The City Engineer said his two comments are outstanding in his comment letter and they may be conditions of approval by the Planning Board. The first is acceptance by the City Council of the revised bond amount The second is acceptance of the revised Notice of Intent for the New York State Department of Environmental Conservation (“NYSDEC”) State Pollutant Discharge Elimination System (“SPDES”) permit.

The Assistant Corporation Counsel said the sidewalk ramps do not comply with the Americans with Disabilities Act (“ADA”) requirements and though not a condition of Planning Board approval, if the roadways are intended to be dedicated to the City, the curb ramps must be ADA compliant.

Lillian Burgarelli moved to declare Lead Agency pursuant to SEQRA.

Alicia Ware seconded the motion

The motion carried unanimously.

Argelia Morales moved to issue a Negative Declaration pursuant to SEQRA.

Lillian Burgarelli seconded the motion.

The motion carried unanimously.

Argelia Morales moved to approve the application under the following conditions:

1. The Applicant shall satisfy all comments in the Informational Inspection Report and the comment letters of the City Planner and City Engineer.

Duane Ware seconded the motion.

The motion passed unanimously via roll call vote.

INDEX NO. 2017-28 SITE PLAN to reuse the existing structure for Hudson Taco and stripe the road for on-street parking and a crosswalk.

Location: 27 S. Water Street

Owner/ Applicant: West Shore Hudson, LLC

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

DISCUSSION BY THE BOARD

The Assistant Corporation Counsel said the Applicant submitted a letter requesting the Planning Board to place Site Plan review of the application on the agenda for the January 2018 meeting. He said that a vote for Lead Agency may be taken.

The City Planner said the action is unlisted under SEQRA and requires CAC and GML 239 review. She said the proposed action is in an archeological sensitive area and there is no trigger for further review because there is no proposed site modifications other than re-striping S. Water Street. She said that S. Water Street is not a City road and the Applicant is requesting a Negative Declaration under SEQRA from the Planning Board in order to obtain a Highway work Permit from the New York State Department of Transportation (“NYSDOT”). She clarified that the proposed use does not require additional parking spaces and that the proposed parking spaces will help reduce the traffic speed.

Ms. Burgarelli said that additional parking spaces will create a bottleneck at S. Water Street and may cause more accidents.

The City Planner said that NYSDOT will look at the traffic impacts but not until the Planning Board assumes Lead Agency. She said that the Applicant has proposed crosswalks, signage and additional traffic lights to slow traffic down for safety reasons.

Ms. Daily said traffic at S. Water Street tends to exceed the City speed limit of 30 mph and they need to slow traffic at S. Water Street.

The Assistant Corporation Counsel clarified that the Building Inspector determined no additional parking is required for the change in use. The Applicant included the re-striping and curb cutting for additional parking spaces. He said that the Applicant will require a Highway Work Permit from NYSDOT and NYSDOT has indicated that they will not take any action until another agency assumes Lead Agency.

Ms. Burgarelli asked how bicycle safety along a state highway will be affected by the application.

The City Planner said the area contains a bike route. A request was sent to NYSDOT for a corridor study to identify the location of the parking spaces, crosswalks, buffer strips and potential bicycle lanes would begin/end. She said adding parking on 27 S. Water Street is a preliminary step to slow the traffic down.

The City Engineer said the Applicant needs to provide proof of access for the dumpster behind the building and a cover page summary on the Site Plan for the Site Plan documents. He said the plans need to be revised to show the recently installed dry sewer lateral in S. Water Street that the Applicant will connect in the first floor of the building to the restaurant uses. He said the Applicant is not proposing any exterior changes resulting in increased impervious surfaces and there is no increase in stormwater run-off.

Mr. Diebolt is concerned that there is not sufficient information, such as a traffic study, to enable them to make an informed decision and making a determination now may contradict the “Complete Streets” approach for the City of Newburgh.

The City Planner said the County has affirmed that the proposed pedestrian crossing enhancements are in alignment with the New York State Complete Streets Act and the County actually commended the Applicant for the proposal.

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

The application was adjourned until the January 16, 2017 Planning Board meeting.

INDEX NO. 2017-31 SPECIAL USE PERMIT to create a driving school on the first floor of the building.

Location: 10 City Terrace North

Owner/ Applicant: Ertha Raymond

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

Ms. Daily recused herself from the application.

DISCUSSION BY THE BOARD

Ertha Raymond, property owner, appeared before the Board.

The Chairperson asked the Assistant Corporation Counsel to give a brief background of the application and noted the following discussed conditions as discussed at the previous Planning Board meeting:

- The permit shall only allow classroom instruction. It shall not permit practical (i.e. actual driving) instruction.
- No driving school vehicles may be kept on or around the premises
- General business days of operation shall be Monday through Thursday. Operation shall not be allowed Friday, Saturday or Sunday.
- General business hours of operation shall be from 10 a.m. to 6 p.m.
- Classes shall be administered between the hours of 4 p.m. to 8 p.m. only, during permitted general business days of operation
- No more than eight (8) students shall be permitted per class

He said a public hearing was opened and closed, the Planning Board declared itself Lead Agency, issued a Negative Declaration and waived the Site Plan requirements all at the November 21, 2017

Planning Board meeting. He said the Chairperson recused herself from the application and thus a vote to approve the application was not taken due to lack of a quorum at the November meeting. He said the Applicant is back for a final vote on the application and that if the Planning Board were to approve the application, it should determine the length of time for the Special Use Permit, discuss other conditions of the Special Use Permit, as well as discuss the comments made at the public hearing, as reflected in the November minutes.

The Applicant confirmed that the representations made by the Assistant Corporation Counsel were accurate. She added that she wanted to place a removable placard on the door.

Ms. Morales confirmed that the Applicant will provide a pick-up and drop-off service for her class.

The City Planner clarified that the Planning Board moved to waive the Site Plan requirements at the November 21, 2017 meeting and that she had no other outstanding comments.

Ms. Burgarelli said that the neighbors do not want a business in the immediate area.

The Applicant said there are illegal businesses already operating in the area and that her business will not interfere with the neighborhood.

Mr. Ware said that parking does not seem to be an issue because there will be no additional parking from the students and that the business will be closed on the weekends.

Ms. Ware said she is comfortable approving the permit for six months and clarified that if a permit is granted, the Planning Board may revisit the application to approve an extension after six months. She said if there are violations on the property, the Planning Board may revoke the Special Use Permit.

Duane Ware moved to approve the Site Plan application under the following conditions:

- The permit shall only allow classroom instruction. It shall not permit practical (i.e. actual driving) instruction.
- No driving school vehicles may be kept on or around the premises
- General business days of operation shall be Monday through Thursday. Operation shall not be allowed Friday, Saturday or Sunday.
- General business hours of operation shall be from 10 a.m. to 6 p.m.
- Classes shall be administered between the hours of 4 p.m. to 8 p.m. only, during permitted general business days of operation
- No more than eight (8) students shall be permitted per class
- The Applicant shall comply with the comments set forth in the Informational Inspection Report of the Building Inspector and Comment Letter of the City Planner
- The Special Use Permit shall remain in effect for approximately six months, and actually shall expire on June 19, 2018.

Kent Diebolt seconded the motion.

The motion passed 5-0 via roll call vote.

Lisa Daily abstained.

With no further business to discuss, the meeting was adjourned at 8:49 p.m.

Respectfully submitted,

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