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PLANNING BOARD MEETING

The City of Newburgh Planning Board meeting was held on Tuesday, January 21, 2020 at the Activity Center, 401 Washington Street, Newburgh, NY 12550

Members Present: Lisa Daily, Chairperson
Alicia Ware
Duane Ware
Heather Moore
Michael Kelly
Sarah Hooff
Richard Rosencrans

Also Present: Alexandra Church, Director of Planning & Development / City Planner
Jason Morris, City Engineer
Jeremy Kaufman, Assistant Corporation Counsel

Absent: Omar Balbuena-Palma, Secretary

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

The Chairperson announced the City Manager's recent appointment of Richard Rosencrans as a member of the Planning Board. The Board welcomed Mr. Rosencrans.

APPROVAL OF MINUTES

Ms. Moore moved to approve the minutes of the December 2019 board meeting.
Mr. Kelly seconded the motion.
The motion passed unanimously.

PUBLIC HEARINGS

Index No. 2019-13

Applicant: House of God Hebrew Pentecostal Church, Inc.
Owner: Seniors Research Institute Inc.
Location: 140 Overlook Place

SUBDIVISION Application to subdivide the property into three (3) lots.

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

Pastor Robert Diaz, from House of God Hebrew Pentecostal Church, Inc., and Jonathan Millen, Land Surveyor from Automated Construction Enhanced Solutions, Inc., appeared on behalf of the property owner.

The Land Surveyor said the property owner’s intent is to subdivide the lot at 140 Overlook Place. He said one (1) of the subdivided lots will be merged with 149 William Street and the other lot will be merged with 124 Overlook Place. He said the intent for the lot merged with 124 Overlook Place is for conversion into a community parking lot.

The Assistant Corporation Counsel said re-alignment of lot lines could be done administratively and would not require Planning Board approval only if the subject properties were all owned by the same person or same entity (i.e. same legal name), among other requirements. He said the church does not yet own one of the subject properties, though it is in contract to purchase said property. The Applicant elected to seek approval of the lot line modification prior to purchasing the lot. Thus, the process prompted a subdivision application because Chapter 266 of the City Code does not allow an administrative action on a lot line change when the parcels have different owners. He said the process is essentially a lot line change, but in terms of Planning Board applications, the project is referred to as a subdivision application. He said part of the process requires a public hearing and the Board should open the public hearing to afford the public an opportunity to comment on the application.

The Chairperson opened the public hearing.

Sherry Bennett, 133 Carson Avenue, asked how the application will impact her property.

There was no one else present for or against the application.

The Chairperson closed the public hearing.

The City Engineer said at the last Board meeting there was discussion regarding whether the application was a subdivision or a lot line re-alignment. He said the Assistant Corporation Counsel clarified the process for the benefit of the public and the Board. He said the Applicant’s design professional initially presented a lot line re-alignment and he has no further comments on the initial proposal.

The Assistant Corporation Counsel clarified that the Applicant submitted two (2) similar proposals for consideration. He said the Board should disregard the submitted subdivision plat dated December 5, 2019 and only consider the original subdivision plat dated November 22, 2019.

The City Planner clarified that the property is not within the East End Historic District. She said there are no modifications to the site and there will be no effect on nearby properties. She said the Applicant mentioned a separate use later that would require a separate public hearing but that application is not currently before the Board.

The Chairperson asked for additional information regarding the bulk table.

The Assistant Corporation Counsel said that every Planning Board application must conform to the bulk requirements found in §300-32 of the City Code. He said the original Informational Report did not make a ruling on the bulk requirements because there was no indication of the new location of the lot lines proposed for the properties.

The Assistant Corporation Counsel said a separate issue was the number of off-street parking spaces required in the Low Density Residential Zone. He said the City Code requires that the Planning Board determine the number of off-street parking spaces for this application. He said per the Building Code, the number of off-street spaces depends on the square footage of the assembly space of the building. He said the Board may consider the Building Code in determining the parking requirement. He said once the Board votes to set the parking requirement, the Building Inspector will revise the Information Report to update the bulk requirements. He said this will enable the Applicant to proceed to the Zoning Board of Appeals if his application does not conform to any of the bulk requirements in the Code. He said at this time, the Applicant is requesting a determination on the required parking amount and preliminary plat approval. He asked the Applicant for the number of seats in the assembly space.

The Pastor said they have about 75 seats in the assembly space.

The Assistant Corporation Counsel asked for the size of the assembly space.

The Pastor said the size of the meeting place is approximately 1,000 sq. ft. He said there is approximately 1,125 sq. ft. of space available outside, but they do not congregate there.

The Land Surveyor gave an overview of the proposed parking area for the church. He said the parking area will be merged after approval is given.

The Assistant Corporation Counsel said the Board should consider that the Building Code sets one (1) off-street parking space for every five (5) seats in the assembly space.

The Chairperson clarified that the Board should consider the Building Code for off-street parking as a guideline and not a requirement in this instance. She said the suggested amount of off-street parking spaces is 15.

The Pastor said several congregation members are not from Newburgh and usually carpool to the church. He said approximately 30 members carpool to the church and thus less parking spaces are utilized.

The Chairperson said it appears the Applicant has sufficient parking space for the existing members.

Mr. Ware confirmed the intent is to purchase the parking area on 140 Overlook Place.

The Chairperson said the Board appears to be satisfied with the suggested parking amount.

The Assistant Corporation Counsel said the application is considered a Type II action pursuant to SEQRA. He said the Board should declare the number of off-street parking spaces and vote on the preliminary plat.

Ms. Moore moved to declare the application a Type II action under SEQRA
Ms. Hooff seconded the motion.
The motion passed unanimously via roll-call vote.

Ms. Hooff moved to declare an off-street parking requirement of 15 parking spaces for the House of Worship.
Ms. Moore seconded the motion.
The motion passed unanimously via roll-call vote.

Ms. Moore moved to approve the Preliminary Plat.
Mr. Kelly seconded the motion.
The motion passed unanimously via roll-call vote.

The Applicant was informed to submit a final plat for review and apply to the Zoning Board of Appeals for any bulk requirements that are not met.

OLD BUSINESS

Index No. 2019-11

Applicant: Newburgh Commercial Development Corp.
Owner: Newburgh Commercial Development Corp.
Location: 639 Broadway f.k.a. 625-637 Broadway

SITE PLAN Application to renovate two existing structures for retail, office space and manufacturing.

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

DISCUSSION BY THE BOARD

Victor Cappelletti on behalf of Newburgh Commercial Development Corp. appeared with Derek Day, Project Engineer from M.A. Day Engineering P.C.

The Project Engineer gave a brief review of the project and highlighted the following:

- Overall project is a 2.4 acre parcel in Commercial District;
- Two (2) existing structures to be renovated;
- Proposing mixed uses for the front building (offices, print shop).

The City Engineer said the Applicant addressed the vast majority of his comments except a minor comment on the placement of bollards. He said at the last Board meeting they discussed the property location within the 100-year floodplain. Since that meeting, the Building Inspector hired a consultant to evaluate the Applicant’s Floodplain Development Permit. He said the consultant completed a review of the permit application and the Building Inspector provided a comment letter highlighting the issues related to that review. He said comment numbers 1, 4 and 5 are all related to the building permit application process (subject to Planning Board approval) and comment numbers 2 and 3 are minor. He said the Applicant should also provide the volumetric calculations for proposed cuts/fills for review per comment 6.

The Chairperson asked for additional information regarding comment number 6 on the Building Inspector's comment letter.

The City Engineer said the project involves re-grading the parking lot on the south side and a cut/fill in terms of earth work. He said a cut means removal of soil and a fill would mean an import of soil to the site. He said with respect to the Floodplain Permit, the export/import of soil needs to balance out. He asked if the Project Engineer has looked into the net gain. He asked if the Project Engineer had any additional questions/comments.

The Project Engineer said there appears to be a rough balance but may require some slight modifications. He said he is confident the Building Inspector's comments can be addressed. He said he has no further questions at this time.

The City Engineer said there were changes made to the landscaping plan. He said the Board should review those changes and ensure they are satisfied prior to approval or request changes to the site plan. He reiterated that the other comments on the Building Inspector's letter relate to the Building Permit process and are not required for Planning Board approval.

The City Planner said her only outstanding comment refers to the Floodplain Permit and she concurs with the comments made by the City Engineer. She said the Applicant should be aware of the comments related to the Building Permit process and address those comments sooner rather than later.

The Chairperson asked for the intent of the basement on site. She asked how far the Applicant was intending to develop the sidewalk.

Mr. Cappelletti said the basement is on the ground floor of the building. He said there is only a basement on the Broadway side of the building and it is on the ground level. He said the intent is to install new sidewalks that extend the full length of the property line. He said he is spending a significant amount of funds to repair the building.

Ms. Hooff said she asked for warmer lighting on site and said it would benefit the neighborhood and traffic.

The Assistant Corporation Counsel said the action is considered an unlisted action pursuant to SEQRA and the Board may continue to ask any questions with regard to the application. He said the Board should consider all of the comments and the presentations by the Applicant and may vote on the application subject to the satisfaction of City Staff comment letters if they are comfortable with the site plan as presented.

Mr. Kelly moved to declare the Planning Board Lead Agency pursuant to SEQRA.
Ms. Moore seconded the motion.
The motion passed unanimously via roll-call vote.

Ms. Ware moved to issue a Negative Declaration pursuant to SEQRA.
Mr. Kelly seconded the motion.
The motion passed unanimously via roll-call vote.

Ms. Hooff moved to approve the Site Plan application subject to installing lighting under 3,000 Kelvin and satisfaction of City Staff's comment letters.
Mr. Rosencrans seconded the motion.
The motion passed unanimously via roll-call vote.

NEW BUSINESS

Index No. 2020-01

Applicant: Vishal Enterprises of Grand Street, Inc.
Owner: Vishal Enterprises of Grand Street, Inc.
Location: 405 Broadway

SPECIAL USE PERMIT & SITE PLAN Application to add an addition to the building.

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

Jonathan Cella, Project Engineer, and Bhajan Singh from Vishal Enterprises of Grand St. Inc. appeared before the Board representing the property owner.

The Project Engineer gave a brief overview of the project and highlighted the following:

- Property is in the Broadway Corridor Zone;
- Project obtained approval in 2014;
- Project was never completed and requires new approvals;
- Project involves expanding the gas station, no change in use;
- Addition is approximately 600 sq. ft.;
- Project requires approval from the Planning Board and Zoning Board of Appeals;
- Requesting Special Use Permit approval from the Planning Board.

The Project Engineer said an Area Variance application was submitted to the Zoning Board of Appeals for review. He said there are no other proposed modifications to the site other than the extension of the building.

The City Planner confirmed that the project received approval in 2014. She said in 2015, the City of Newburgh updated the Zoning Code and added four (4) new zones known as the Form-Based Code. She said the Form-Based Code governs the development of new and existing structures with a focus on the importance of building types to provide an urban, walkable, vibrant and uniform downtown. She said the Form-Based Code establishes minimum building requirements for any development in those neighborhoods. She said unfortunately, there are some conflicts of compliance for existing buildings like 405 Broadway. She said per the Zoning Enforcement Officer's letter, the approvals for the project obtained in 2014 are no longer valid. She said the Applicant expressed his desire expand the use of the Gas Station at 405 Broadway but per §300-31 of the City Code, an Automobile gas station is a nonconforming use. She said per §300-78(A) the pre-existing nonconforming use of a structure or parcel of land may, upon a Special Use Permit by the Planning Board, be changed to another nonconforming use which is of the same or lesser impact. She said in determining whether a use is of greater or lesser impact, the Planning Board must consider the impact criteria listed in §300-104 of the City Code. She said the Planning Board should review the site plan and determine whether the construction of the addition, plus the existing site modifications, would result in a de-intensification of the property in order to grant the Special Use Permit.

Ms. Moore asked if there is an existing Special Use Permit for the gas station.

The City Planner said the property does not have an active Special Use Permit but is allowed to operate because of the approval granted under the old Zoning Code. She said the expansion of the gas station triggered review by the Planning Board. She said the project does not require review by the Conservation Advisory Council and is not subject to review by the Orange County Department of Planning. She said because question 20 on the EAF was answered "yes," the Applicant should clarify any potential impacts on the property or adjoining property. She said specific standards for the design, layout and construction of parking areas apply for new or expanded uses per §300-68 of the City Code and the Board should review those considerations for consistency; she said the Board should focus on §300-68 (A)(5) of the City Code. She said the existing curb cut does not appear to conform to the Streetscape Standards and upgrades must be proposed and submitted for review along with a more substantial differentiation and protection of pedestrians.

The Project Engineer said the Applicant should submit a signed and sealed survey and update the site plan with the following:

- Parking layout;
- Construction details;
- Location of water/sewer services;
- Lighting plan;
- Snow storage plan.

He said the locations of the curb ramps should also be modified with one of the ramps on Broadway removed and the other moved closer to the light at Fullerton Avenue. He said the remaining curb ramp on Lake Street should align with the traffic light. He said additional comments on the streetscape standards are detailed on his comment letter. He said automobile turn templates should be provided to detail delivery trucks entering/leaving the site.

The Chairperson said the existing gas station is a very busy place and it is up to the Board to determine if the Special Use Permit should be granted.

The Assistant Corporation Counsel said the Applicant is proposing to add an extension to the existing building at 405 Broadway. He said the action is considered an expansion of the use and, on its own, would not be allowed. He said in this case, the Applicant is attempting to mitigate the impact of the expansion by modifying the sidewalks, ramps and lighting so that the overall impact of the existing use is lessened. He said the project was forwarded to the Planning Board for consideration and weighing of the various intensification/de-intensification measures. He said it is important for the Board to consider the overall design of the site plan, plus the impact on vehicle traffic, pedestrian traffic, property security, and garbage/debris collection. He said the Board may not vote on the application because a public hearing needs to be scheduled for the Special Use Permit.

Ms. Moore asked if a traffic study was completed.

The Project Engineer said no traffic study was completed because the change will not increase traffic levels.

Mr. Singh said part of the addition will include revisions to the site plan that will enable better traffic flow.

The Chairperson asked for the purpose of the addition to the building.

Mr. Singh said the addition will be used as storage.

Mr. Kelly asked for additional details on the sidewalk improvements.

The Project Engineer said the intent is to reduce the width of the existing sidewalks and provide a grass strip with plantings. He said the sidewalks will all conform to the streetscape standards.

Mr. Kelly confirmed the existing sidewalks are level with the street; he asked if the intent is to raise them.

The Project Engineer said they will not raise the sidewalk above the existing grade because that will create drainage problems.

The Chairperson said additional vegetation on the sidewalks would help regulate traffic.

Mr. Kelly said if the sidewalk is not going to be raised; the Applicant should add more than just a strip of grass to the site.

The City Planner said the Applicant may consider the site at the former Bank of America building across the street for ideas on site improvements.

The Chairperson said the addition of hedges would be an improvement.

Ms. Hooff said she is not overly concerned with the addition because she is considering the overall benefit to the public. She said the expansion is not dramatic and the Applicant should make improvements to the site overall.

Mr. Singh said he does not have sufficient room on site for all the improvements across the street. He said the building across the street went out of business and he is only adding what is feasible.

Ms. Hooff said the Applicant should look to modify the sidewalks to conform to the Streetscape Standards and add trees.

The Chairperson asked for the number of parking spaces on site.

The Project Engineer said they will have one (1) ADA compliant parking space and three (3) regular parking spaces.

Ms. Moore asked if soil testing will be completed.

The Applicant said soil testing is not required.

The Chairperson confirmed there will be four (4) points of egress for cars.

Mr. Kelly said he would like a substantial outline of the site and conformance to the updated streetscape designs.

Mr. Singh said he understands the Board wants additional modifications to the site but substantial modifications may hurt his business. He said if the Board is not inclined to give an approval, he will leave the site as-is.

Ms. Hooff clarified that the intent is not to hurt the business but to improve the site and regulate the traffic flow in order to increase the safety of pedestrians.

Mr. Singh said the last time he was approved he did not change anything.

The Chairperson said the Zoning Code has changed since the last time the Applicant was approved.

Mr. Singh said the majority of the site will remain as is.

The Chairperson said the Board is concerned with increasing pedestrian safety on-site and regulating the traffic flow. She said the Applicant should keep this in mind and look to the building across the street for examples of site improvements.

Ms. Hooff said the Applicant should reduce the size of the curb cuts to channel the traffic flow.

Mr. Kelly said the Applicant is headed in the right direction but the site plan need revisions to comply with the Zoning Code.

The Project Engineer said they are going to the Zoning Board of Appeals on January 28 and will return to address additional concerns by the Planning Board.

Ms. Hooff said the Applicant has a variety of options available to address pedestrian safety.

Mr. Ware clarified they are considering approval of the non-conforming structure because of the upgrades to the site.

Mr. Singh said he needs the addition due to safety concerns on the rear of the building. He said he is also contemplating adding a fence.

The Chairperson said if the Applicant would like to install a fence, he should add it to the site plan for consideration.

The Applicant was informed to get in contact with the Secretary to comply with the public hearing requirements and submit a revised site plan in order to attend the next Planning Board meeting on February 18, 2020.

With no further business to discuss, the meeting was adjourned at 8:20 p.m.

Respectfully submitted,

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