

REGULAR MEETING
November 28, 2017

City of Newburgh Zoning Board of Appeals

Summary of record of actions taken at the Regular Meeting of the Newburgh Zoning Board of Appeals held on November 28, 2017 at 7:00 p.m. at the City of Newburgh Activity Center, 401 Washington Street, Newburgh, New York 12550.

Members Present: Joanne Lugo, Chairperson
David Schwartz
Barbara Smith
Michael Papaleo
Austin Dubois
Corey Allen

Members Absent: LaShawn Jasper

Also Present: Jeremy Kaufman, Assistant Corporation Counsel
Omar Balbuena-Palma, Secretary

Old Business:

Appeal No. 2017-18

Applicant: Anthony F. Giordano
Owner: Anthony F. Giordano
Location: 323-325 Liberty Street

Requesting AREA Variances for 15 feet on the East front yard setback and 10 feet on the North side yard setback which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

Jonathan Cella, project engineer, and the Anthony Giordano, property owner, appeared before the Board. Mr. Cella said the building footprint will not be changed and no impervious surface expansion is proposed. He said the project was granted Site Plan approval by the Planning Board on November 21, 2017 conditioned upon receipt of the appropriate Area Variances from the Zoning Board of Appeals. He said the building is a zero lot line building and the only way to meet the setbacks would be to demolish the building, which is not feasible for the owner.

Mr. Dubois confirmed that there would be no additional construction on site.

Ms. Smith confirmed that the owner will re-open the vacant building on the property.

Mr. Papaleo clarified that the proposed uses on the first and third floor are "Cottage Industry" and the second floor will be residential.

The Assistant Corporation Counsel said if there is a change in the use of the building that the Planning Board approved, the Applicant will have to re-apply to the Planning Board and possibly the Zoning Board of Appeals for the new use.

The Chairperson opened the public hearing.

No one spoke for or against the application.

Ms. Smith moved to close the public hearing.

Mr. Schwartz seconded the motion.

The motion carried unanimously.

Mr. Papaleo moved to declare the application a Type 2 action under SEQRA.

Mr. Schwartz seconded the motion.

The motion carried unanimously.

Mr. Dubois moved to approve the area variance requested as submitted by the applicant.

Mr. Schwartz seconded the motion.

The motion was carried 6-0 via roll call vote.

New Business:

Appeal No. 2017-19

Applicant: Coppola Associates

Owner: Professional Commercial Group LLC

Location: 171 First Street

Requesting **AREA Variances** for 8.5 feet on the front yard setback, 5 feet on the side yard setback and 20% on lot coverage, which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

AJ Coppola, Applicant, appeared before the Board. The Applicant gave a brief background of the project. He said the garage received approval for demolition by the Architectural Review Commission ("ARC") on October 10, 2017. On November 14, 2017 he presented plans for a new construction of a single-family residence. The ARC requested a few modifications to the original submission footprint. He said the plans were revised per the ARC comments and highlighted the following modifications:

- Building location was moved to be in line with adjacent building on First Street;
- Garage doors removed from street view and relocated to the rear of the building;
- Door added on Johnston Street side.

He said the Informational Report was amended and he is before the Board requesting approval for Area Variances.

Mr. Papaleo confirmed the building is a single-family home and there is enough space for the homeowner to safely exit the garage.

The Chairperson opened the public hearing.

No one spoke for or against the application.

Mr. Allen moved to close the public hearing.

Mr. Schwartz seconded the motion.

The motion carried unanimously.

Mr. Dubois moved to declare the application a Type 2 action under SEQRA.
Mr. Papaleo seconded the motion.
The motion carried unanimously.

Mr. Allen moved to approve the area variance requested as submitted by the applicant.
Mr. Papaleo seconded the motion.
The motion was carried 6-0 via roll call vote.

Appeal No. 2017-20

Applicant: Jonathan Cella
Owner: 28 Hasbrouck Realty Partners, LLC.
Location: 28 Hasbrouck Street

Requesting **AREA Variances** for 5 feet on the East and West side yard setback, 15 feet on the front yard setback and 4 off-street parking spaces that do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low Density Residential Zone.

Jonathan Cella, Applicant, and Eulogio Santiago, a member of the Owner, appeared before the Board. Mr. Cella gave a brief background on the project. He said the property was originally a two-family home and reverted to its most restrictive use as per the City Code during a period of vacancy. He said the Owner now wants to change the use back to a two-family home. The project is pending before the Planning Board for Site Plan approval and before the Zoning Board of Appeals for Area Variances. He said there are no proposed modifications and no available off-street parking on site.

Mr. Papaleo confirmed that the owner purchased the property around September 2017.

Mr. Schwartz said the Owner knew the use before the purchase and said that he is hesitant to approve the variance because it is a self-created difficulty. Also, the data at the City Assessor's office does not support his financial hardship claim.

The Owner said due to past experience and the cost of rehabilitation, he will not receive a return on his investment without changing the use. He estimated the total amount of renovation costs in the building to be about \$80,000. He said if left as a single-family residence of that size, his experience suggested that residents might illegally sublease portions of the building. His plan is to rehabilitate the building and then sell it to a new homeowner in the future or continue to rent it. He said if the variance is not approved, he would consider walking away from the project.

The Assistant Corporation Counsel said the use of the building is for the Planning Board to consider and that the Zoning Board must only consider the area variances.

Mr. Papaleo confirmed that the owner is spending roughly \$40,000 on renovation costs per unit.

The Chairperson opened the public hearing.

Susan Timmer, 41 Hasbrouck Street, spoke against the application. She said parking on the street is not sufficient for the current residents and that her driveway at 35-37 Hasbrouck Street is occasionally blocked. 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.

Deborah Williams, 51 Hasbrouck Street, spoke for the application. She said she was initially confused as to what the variance implied. After clarification, she said the Owner is only asking to change the use to what it originally was and that she is grateful at the job the Owner is doing with the renovation.

Mr. Allen moved to close the public hearing.

Mr. Dubois seconded the motion.

The motion carried unanimously.

Ms. Lugo said that the parking situation is, and will continue to be, an issue for the City of Newburgh and the City should find a solution.

Mr. Dubois moved to declare the application a Type 2 action under SEQRA.

Mr. Schwartz seconded the motion.

The motion carried unanimously.

Mr. Allen moved to approve the area variance requested as submitted by the applicant.

Mr. Papaleo seconded the motion.

The motion was carried 5-1 via roll call vote. (Mr. Schwartz voted against)

Appeal No. 2017-21

Applicant: Jonathan Cella

Owner: 42 Hasbrouck Realty Partners, LLC.

Location: 42 Hasbrouck Street

Requesting **AREA Variances** for 5 feet on the East and West side yard setback, 15 feet on the front yard setback and 4 off-street parking spaces that do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low Density Residential Zone.

Jonathan Cella, project Engineer, and the owner Eulogio Santiago, remained before the Board.

Mr. Dubois confirmed that there is no substantial difference between the 42 Hasbrouck Street and 28 Hasbrouck Street applications.

The Chairperson opened the public hearing.

Susan Timmer, 41 Hasbrouck Street, spoke against the application.

Deborah Williams, 51 Hasbrouck Street, spoke for the application.

Mr. Schwartz moved to close the public hearing.

Mr. Papaleo seconded the motion.

The motion carried unanimously.

Mr. Allen moved to declare the application a Type 2 action under SEQRA.

Mr. Schwartz seconded the motion.

The motion carried unanimously.

Mr. Dubois moved to approve the area variance requested as submitted by the applicant.
Mr. Allen seconded the motion.
The motion was carried 5-1 via roll call vote. (Mr. Schwartz voted against)

Appeal No. 2017-22

Applicant: Jonathan Cella
Owner: 53 Hasbrouck Realty Partners, LLC.
Location: 53 Hasbrouck Street

Requesting **AREA Variances** for 5 feet on the East side yard setback, 3 feet on the West side yard setback, 15 feet on the front yard setback and 4 off-street parking spaces that do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low Density Residential Zone.

Jonathan Cella, project engineer, and the owner Eulogio Santiago, remained before the Board. Mr. Cella said the application is substantially the same as 28 Hasbrouck Street and 42 Hasbrouck Street, with only a minor difference on one of the setbacks.

The Chairperson opened the public hearing.

Susan Timmer, 41 Hasbrouck Street, spoke against the application.

Deborah Williams, 51 Hasbrouck Street, spoke for the application.

Ms. Smith moved to close the public hearing.
Mr. Dubois seconded the motion.
The motion carried unanimously.

Mr. Allen moved to declare the application a Type 2 action under SEQRA.
Mr. Dubois seconded the motion.
The motion carried unanimously.

Mr. Dubois moved to approve the area variance requested as submitted by the applicant.
Ms. Lugo seconded the motion.
The motion was carried 5-1 via roll call vote. (Mr. Schwartz voted against)

Appeal No. 2017-23

Applicant: Hector Gualpa
Owner: Hector Gualpa
Location: 167 Chambers Street

Requesting **AREA Variances** for 4 feet on the front yard setback, 5 feet on the South side yard setback 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 Zone.

Charles Brown, from Talcott Engineering Design PLLC, appeared before the Board representing the Owner. Mr. Brown said the Owner intends to renovate the building and live in it. He said the income from the other two units is necessary to finance the renovation. There are no proposed footprint modifications or building changes. He said parking is not an issue on the street.

The Assistant Corporation Counsel said that due to the projects adjacency to South Street, the application was referred to the County for GML 239 review. The County has thirty days to send a response before the Zoning Board can make a motion to approve the application. The City sent the request letter to the County in a timely fashion, but the County's representative was out for an extended period and could not return a response by the Board meeting date.

The Chairperson opened the public hearing.
There was no one present to speak for or against this application.

Mr. Dubois moved to close the public hearing.
Mr. Schwartz seconded the motion.
The motion carried unanimously.

Mr. Allen moved to declare the application a Type 2 action under SEQRA.
Mr. Dubois seconded the motion.
The motion carried unanimously.

The application was tabled and the Applicant was informed to attend the next Zoning Board of Appeals meeting on December 28, 2017.

Appeal No. 2017-24

Applicant: Nathan Litwin
Owner: Newburgh Community Land Bank
Location: 21 Johnston Street

Requesting **AREA Variances** for 5 feet on the side yard setback and two off-street parking space which does not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

Nate Litwin, Applicant, appeared before the Board. The Applicant's proposed to construct a single-family home on the property. The Applicant said he noticed a typo in the Informational Report of the Building Inspector about the number of required off-street parking spaces. The Information indicated that a variance from 1 off-street parking space was needed. The Applicant said his project did not provide for any off-street parking and believed he needed a variance from 2 off-street parking spaces.

The Assistant Corporation Counsel said that the required parking off-street parking in the Medium Density Residential zoning district is 2 off-street parking spaces per dwelling unit.

The Board reviewed the photo and confirmed that the variance will be for two parking spaces.

The Chairperson opened the public hearing.

There was no one present to speak for or against this application.

Mr. Allen moved to close the public hearing.
Mr. Dubois seconded the motion.
The motion carried unanimously.

Mr. Papaleo moved to declare the application a Type 2 action under SEQRA.
Mr. Dubois seconded the motion.
The motion carried unanimously.

Mr. Schwarz moved to approve the area variance requested as amended.
Mr. Papaleo seconded the motion.
The motion was carried 6-0 via roll call vote.

Appeal No. 2017-25

Applicant: Nathan Litwin
Owner: Newburgh Community Land Bank
Location: 23 Johnston Street

Requesting **AREA Variances** for 5 feet on the side yard setback and two off-street parking space which does not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

The Applicant said that the project is substantially the same as 21 Johnston Street. He also clarified that the variance request included an amended variance from two parking spaces.

The Chairperson opened the public hearing.

There was no one present to speak for or against this application.

Ms. Smith moved to close the public hearing.
Mr. Papaleo seconded the motion.
The motion carried unanimously.

Mr. Papaleo moved to declare the application a Type 2 action under SEQRA.
Mr. Allen seconded the motion.
The motion carried unanimously.

Mr. Dubois moved to approve the area variance requested as amended.
Mr. Schwartz seconded the motion.
The motion was carried 6-0 via roll call vote.

Appeal No. 2017-30

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

Requesting a **USE Variance** to convert the existing first floor Garage into an Assembly Hall and an **AREA Variance** for 40% on lot coverage and 41 off-street parking spaces, which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low Density Residential Zone.

Jonathan Cella, project engineer, and Cesar Grados, Owner, appeared before the Board. Mr. Cella said the owner is proposing to change the use of the building into an indoor soccer field (deemed an Activity Facility by the Building Inspector) on the weekdays and a family-oriented party space

(deemed an Assembly Hall by the Building Inspector) on the weekends. He said there are no proposed exterior changes and provided a financial statement to the Board members. He said the Owner is losing around \$16,000 per year.

Mr. Schwartz confirmed the Owner has owned the property for three years.

The Owner said the proposed use of the building as an Activity Facility will be in the afternoon and evening (4 p.m. to 10 p.m.) Monday through Friday, and an Assembly Hall (4 p.m. to 2 a.m.) Friday and Saturday only. He said the building will be closed on Sunday and that parking will be during mostly off-peak hours.

Mr. Papaleo said the requested parking variance is a major concern for him because parking is extremely difficult in the neighborhood especially with the surrounding businesses.

The Owner said that around ten parking spaces are required for the indoor soccer field, and that some of the older players will walk to the building. He does not find an issue with parking availability.

Ms. Smith said there would most likely be a demand for more than ten parking spaces due to the nature of the activity.

Mr. Allen said the parking situation on Mill Street is awful.

The Assistant Corporation Counsel clarified that the Applicant has attended a Planning Board Workshop, but not a Planning Board meeting. The proposed use of the Activity Facility would require a Special Use Permit. He said the Assembly Hall use would require a use variance. Both the Activity Facility and Assembly Hall uses would require area variances. The Board was free to request additional information to clarify any concerns related to the use and area variance application. He said the Building Department would be in charge of enforcing any Special Use Permit conditions and Building Code requirements if the Applicant was granted approval.

Mr. Cella said the adjacent Church granted the Owner an additional exit to the street for emergency purposes and there will be no cooking on site. He said the owner would obtain the necessary permits if they wished to provide alcohol.

Mr. Dubois said that parking is a huge issue and requested additional information to clarify the availability of off-street parking. He also requested additional information about why current available uses in the Commercial Overlay zone have not been explored and/or worked for the Owner.

Ms. Smith suggested the Applicant submit time-stamped photos showing the availability of parking during hours of operation throughout the weekdays and weekends.

Mr. Papaleo said the owner may be able to find a better use for the building within the scope of acceptable uses in the Commercial Overlay zone.

The Chairperson opened the public hearing.

There was no one present to speak for or against this application.

Mr. Dubois moved to table the application and keep open the public hearing for the December 28, 2017 meeting.

Mr. Schwartz seconded the motion.

The motion was carried 5-1 (Mr. Papaleo voted against)

Approval of Minutes

Mr. Dubois moved to approve the October 24, 2017 minutes.

Ms. Lugo seconded the motion.

The motion carried unanimously.

Meeting adjourned at 8:55 p.m.

Respectfully Submitted:

Approved:


Omar E. Balbuena-Palma, Secretary


Joanne Lugo, Chairperson