

ZONING BOARD OF APPEALS MEETING

Summary of record of actions taken at the Regular Meeting of the Newburgh Zoning Board of Appeals held on June 26, 2018 at 7:21 p.m. at the City of Newburgh Heritage Center, 123 Grand Street, Newburgh, New York 12550.

Members Present: David Schwartz, Acting Chairperson
Barbara Smith
Julie Lindell
Ben Brandt

Members Absent: Joanne Lugo
Corey Allen
Michael Papaleo

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

Approval of Minutes

Mrs. Smith wished to abstain from voting to approve the May minutes, as she was not present for the May meeting. With only three possible votes, approval of the May minutes were carried over to the July meeting.

New Business

Appeal No. 2018-11

Applicant: Jose L. Ramos
Owner: Jose L. Ramos
Location: 357 Ann Street

Requesting an **AREA** Variance for 2.5 feet on the west side yard setback, 2.5 feet on the east side yard setback and 18 feet on the rear yard setback, all of which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone with a Commercial District Overlay.

Jose Ramos, Property Owner, appeared before the Board. He gave a brief overview of the project. He said the intent is to install a partially in-ground pool for his family.

Mr. Schwartz asked the Owner if he considered modifying the pool to meet the setback requirements.

The Owner said complying with the setback requirements would reduce the pool size and swimming would be uncomfortable. He said he does not want a small pool.

Ms. Smith confirmed that the Owner does not currently live in Newburgh. The Owner said he intends to move to 357 Ann Street with his family.

Ms. Lindell clarified the pool will rise 2 feet from the ground and will have a surrounding deck. She asked if the Owner considered rotating the pool 90 degrees to reduce the impact on the side yard setback. She also asked if there was additional space at the rear of the property.

The Owner said the proposed location for the pool allows for approximately 20 feet of yard space in between the pool and the house on the premises. He said rotating the pool 90 degrees would reduce that yard space. He did not have a survey available to show the limits of his property, including the rear.

The Assistant Corporation Counsel said the Board may request a survey from the Applicant if it would help clarify the property boundaries.

Ms. Smith clarified that the pool will not connect to an existing water supply and instead would be filled using a water pump.

Mr. Brandt said the pool may be reduced in size to meet the City Code requirements and the Owner has not provided him with an insurmountable reason as to why the pool size could not be reduced.

Ms. Lindell said she feels comfortable approving the rear yard setback because there is an existing parking lot behind 357 Ann Street. She said she is uncomfortable approving the side yard setbacks because placing the pool too close to the property lines may disturb the neighbors and other alternatives were not explored.

Mr. Schwartz said he is not too concerned with the rear yard setback because of the parking lot, but he has difficulty understanding the need to install a pool that does not meet the Code requirements from the outset.

The Owner said the actual pool is smaller than 12' x 20' because the decking and retaining walls are not shown in the diagram. He said he is not comfortable reducing or rotating the pool location because that will reduce the yard space to approximately 12 feet.

The Assistant Corporation Counsel made the Owner aware that all 4 votes of the present Board members were needed to approve his application. In light of the comments from the Board members, the Owner could request a vote on the application as submitted, modify his application according to Board input, or table the application until the following month.

The Acting Chairperson opened the public hearing.

There was no one present for or against the application.

The Acting Chairperson closed the public hearing.

Ms. Smith confirmed the pool will be secured with a surrounding fence.

The Owner said the requested setbacks are not significant and reducing the pool size will hinder the ability to swim in the pool. He elected a vote on the application as submitted.

Mr. Schwartz moved to declare the application a Type II action under SEQRA.

Ms. Smith seconded the motion.

The motion carried unanimously.

Mr. Schwartz moved to approve the Area Variance as requested

Ms. Lindell seconded the motion.

The motion was defeated 4-0 via roll call vote.

Meeting adjourned at 7:55 p.m.

Respectfully Submitted:

Approved:

Omar E. Balbuena-Palma, Secretary

Joanne Lugo, Chairperson