CITY OF NEWBURGH
ZONING BOARD OF APPEALS
123 Grand Street, Newburgh, N.Y. 12550

Joanne Lugo, Chairperson
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ZONING BOARD OF APPEALS MEETING

Summary of record of actions taken at the Regular Meeting of the Newburgh Zoning Board of Appeals held on January 23, 2018 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
Members Absent:	Corey Allen Austin DuBois LaShawn Jasper
Also Present:	Jeremy Kaufman, Assistant Corporation Counsel Omar Balbuena-Palma, Secretary

The Chair informed the Applicants that only four Board members were present at the meeting and any vote on an application would require a unanimous vote for approval. She said any Applicants could present their application to the Board but adjourn a vote until the next Zoning Board of Appeals meeting on February 27, 2018, if the Applicant wished to proceed in that fashion.

Old Business

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, an **AREA Variance** (for Assembly Hall) for 40% on lot coverage and 41 off-street parking spaces, and an **AREA Variance** (for Activity Facility) for 31 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 requested adjourning the application until the February 27, 2018 meeting.

The application remained tabled and the public hearing kept open until the February 27, 2018 meeting.

New Business

Appeal No. 2017-33

Applicant: Jeffrey McKean
Owner: 286 Grand Street, LLC
Location: 286 Grand Street

Requesting a **USE Variance** for Apartment House in the existing building at 286 Grand Street and an **AREA Variance** for 15 feet on the front yard setback, 10 feet of the north and south side yard setback, 1 story on the building height, and 20 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low Density Residential Zone.

Stephen J. Gaba, project attorney, and Jeffrey McKean, Applicant and project architect, appeared before the Board. Mr. Gaba gave a brief history of the project. He said 286 Grand Street is a vacant four-story building in the Low-Density Residential Zone with a Certificate of Occupancy for a seven-family dwelling. He said the Owner concluded that 10 apartment units would be necessary to make a return on the investment. He said the "Apartment House" use pre-dates the applicable 2015 Zoning Code and the intent is to reconfigure the building into a 10-family dwelling. He read the legal standard for consideration of a use variance as set forth in General City Law §81(b).

Mr. McKean said there is considerable water damage, termite damage and vermin infestation in the building. He said the building itself is stable but requires extensive interior work such as electrical re-wiring, air conditioning, heating, and a new sprinkler system. He said there is no proposed expansion of the building's footprint. He said two entrances will be added to the building. There will be two apartments (including the basement), for a total of 10 units. He said the original house layout was for one unit in the basement, first and fourth floor, and two units each on the second and third floors. He said the number of bedrooms and bathrooms will remain the same. A wall will be added to the basement, first and fourth floors to divide the units.

Mr. Papaleo clarified that the maximum allowable occupancy of the building will not be increased.

Mr. Schwartz clarified the bedroom sizes range from 10' x 12' to 14' x 16' and the square footage of each apartment is currently about 1,000 square feet.

Mr. Gaba said the reasoning behind the request is that larger apartments can be harder to rent and the turnaround time to rent smaller apartments is usually quicker. He said smaller apartments are more economically feasible. The Owner provided an annual income projection that averaged out to be $1,100 per unit per month.

Mr. McKean said the monthly rent amount for a one-bedroom apartment was around $800 and around $900 to $1,000 for a two-bedroom apartment.

Ms. Lugo said the monthly figures provided seemed too low for apartments of that size.

Mr. Gaba requested the Board hold the vote until the next ZBA meeting at a minimum. He said the Owner was not clear on the monthly rental amount and he will submit updated information to the Board for its consideration.

Mr. McKean said the rental amounts are based on the current market rates and will probably rise.

Mr. Schwartz clarified the building was purchased on April 2017.

Mr. Schwartz confirmed that there is no current sprinkler system or fire escape on the building.

Ms. Smith confirmed that no work is being done to the building until the Applicant receives Board approval.

Mr. Gaba submitted a letter and financial information to the Board for consideration (which was made part of the record).

Mr. Gaba said the submitted spreadsheet shows that the Applicant cannot realize a reasonable return from the property under existing zoning laws. He said the estimated renovation costs total cost of renovation would be in the low $700,000 range for seven units and high $700,000 range for 10 units. He said the Owner would take a long time to break even on his investment if seven units were rented.

Mr. Papaleo clarified the Owner is not in the realtor business. He believed that renovation costs per floor for ten units should be around $228,000.

Mr. Gaba said the estimated renovation costs project to exceed $1MM for ten units according to the Owner's figures.

Mr. Papaleo said the numbers provided are not accurate.

Mr. McKean agreed that the numbers seemed high.

Mr. Schwartz said that Mr. Gaba should submit the projected monthly rental amounts and check the financials.

Mr. McKean said there will be new kitchens installed on each of the floors.

Mr. Gaba agreed to submit revised information to the Board. He said the property in question is unique because it is the tallest building in the neighborhood. He said the building was designed to be an "Apartment House" and the Board will not see additional variance requests by neighbors with a similar building.

Mr. Gaba said that the requested use variance, if granted, will not alter the essential character of the neighborhood because the use of the building will remain residential. He said the Owner acknowledges that, as a general rule, a party who purchases property with knowledge of the applicable zoning restrictions will be deemed to have self-created the hardship, but he said there are a number of exceptions to this general rule. One such exception is if the building is obsolete. He said the building at 286 Grand Street is obsolete in the sense that it is not suitable for any use other than "Apartment House," which is no longer a permitted use in the Low-Density Residential Zone. He said if the building cannot be used as an "Apartment House" then it should probably be taken down. He said there is an open Certificate of Occupancy for use as an "Apartment House" for seven units and that due to the deteriorated condition of the interior of the building, the Owner, is facing substantial renovation costs beyond the reasonably anticipated costs.

Mr. Schwartz said that the building may be used as a four-unit apartment, and that the Owner should have reviewed the building's condition prior to making the purchase. He said the Certificate of Occupancy cannot be valid because the building has been vacant for a number of years and it has a "Condemned" building sign on the front.

The Assistant Corporation Counsel said the maximum permitted use (with Site Plan approval from the Planning Board) is a three-family dwelling in the Low Density Residential Zone.
Ms. Smith said that a lot of thought went into re-zoning the districts and that approval cannot be granted based solely on the Applicant's inability to make a profit. She said that she is addressing the application with regard to the current allowable uses and not the previously allowed uses. She said that an alternative use may be financially feasible

Mr. Gaba believed that a three-family dwelling would not be financially feasible.

Mr. Gaba said that the building is pre-existing with no proposed expansion to the footprint or building height. He said additional parked cars on the street will not change the character of the neighborhood and the amount of parking spaces required cannot be achieved through a feasible alternative method because there is no available on-site parking. He said the variance is substantial but it should not be the sole reason the variance is denied because the Board needs to consider additional factors in making its determination. He said additional parking may cause an adverse environmental impact but doubts that twenty additional cars will be parked on the street. He said the request is not self-created for the same reasons listed above.

Mr. McKean said the proposed parking lot is a fallback position in the event the Area Variance was denied. He said the owner is in contract to purchase the property and it is a solution to meet the required parking spaces.

Mr. Papaleo said he is concerned that the entrance to the lot is too small.

The Chairperson opened the public hearing.

There was no one present to speak for this application.

Michael Lebron, 284 Liberty Street and 279 Grand Street, spoke against the application. He said his building at 279 Grand Street initially had four units and the number was reduced to two units because that is where the value lies. He said a project at 153 Lander Street was purchased from the City for twenty-two thousand dollars and the construction costs averaged about seventy-eight dollars per square foot. He said people were eager to rent a 550 square foot studio for $950 per month. He said the rental amount for his apartments at Grand Street will be considerably higher than the current Lander Street units. He requested the total square footage of the building. He said he would be happy to share his experience and knowledge with the Owner to make his project a success and suggested the Owner should install no more than seven units in the building.

Michele Basch, 87 Broad Street, spoke against the application. She said her home was purchased in 1997 and she also reduced the number of units in the building. She said the value lies in large apartments and finds it difficult to believe that the apartments will be rented for $800 due to the high construction costs and a $13,000 kitchen. She said the Board should not allow property lots to be converted into parking lots, especially within the Historic District.

Gregory Nato, 288 Grand Street, spoke against the application. He said he is concerned with parking congestion on the street and is opposed to the parking lot suggestion.

The application was tabled and the public hearing was kept open until the February 27, 2018 meeting.

Approval of Minutes

Mr. Schwartz moved to approve the December 28, 2017 minutes.
Mr. Papaleo seconded the motion.
The motion carried unanimously.

Meeting adjourned at 8:20 p.m.

Respectfully Submitted:

Omar E. Balbuena-Palma, Secretary

Approved:

Joanne Lugo

Joanne Lugo, Chairperson