

ZONING BOARD OF APPEALS MEETING

Summary of record of actions taken at the regular meeting of the Newburgh Zoning Board of Appeals (“ZBA”) held on October 22, 2019 at 7:00 p.m. at the City of Newburgh Activity Center, 401 Washington Street, Newburgh, New York 12550.

Members Present: Joanne Lugo, Chairperson
Barbara Smith
Michael Papaleo
Corey Allen
Julie Lindell
Ben Brandt
Dianne Dixon

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

OLD BUSINESS

Appeal No. 2019-21

Applicant: AMP Architecture
Owner: St. Marks Holy Tabernacle Inc.
Location: 313 Fullerton Avenue

Requesting an AREA Variance for 8.6 feet and 8.4 feet on the side yard setbacks and 17 off-street parking spaces, which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Commercial Zone.

Anthony Portillo, Project Architect, and Robert Ferrer, appeared before the Board on behalf of the property owner.

The Project Architect submitted a permission letter and parking photographs for consideration (which were made part of the record). He gave an overview of the application and highlighted the following:

- Revised Informational Report requires a total of 25 off-street parking spaces;
- Hours of operation for House of Worship are every Sunday from 12:30 p.m. to 2:00 p.m. and one Friday night every month from 6:00 p.m. to 7:30 p.m.;
- Revised site plan provides eight (8) off-street parking spaces;
- Photographs show off-street parking availability;
- Permission letter from property owner at 315 Fullerton Avenue allows the use of 10 parking spaces on Sunday;

- No proposed expansion of the building footprint;
- Project requires Site Plan approval from the Planning Board;
- Requesting an area variance for 17 off-street parking spaces in addition to the setbacks;

Ms. Dixon confirmed the Applicant is able to provide up to 18 parking spaces on Sunday.

Mr. Papaleo confirmed that 313 Fullerton Avenue has a maximum of eight (8) off-street parking spaces available.

The Applicant said they originally proposed 12 parking spaces at 313 Fullerton Avenue but at the September Planning Board meeting, the City Engineer determined that four (4) of the parking spaces did not conform to parking regulations. He said they had to eliminate four (4) parking spaces from the site plan as a result.

Ms. Smith clarified that the Zoning Board of Appeals is not granting the Applicant exclusive parking spaces on the street. She asked if the House of Worship use is limited to the second floor.

The Project Architect said they are proposing to utilize the second floor as the House of Worship. He said the second floor has a maximum capacity of 50 people.

The Pastor said a maximum of 20 people usually appear for the service.

Ms. Smith said parking congestion may be an issue during special events.

Ms. Lindell asked a question regarding taxes.

The Assistant Corporation Counsel clarified that questions on taxes are not appropriate inquiries and should not be considered.

Ms. Lindell asked if the building will be used for residential purposes and if it will be utilized during the weekdays

The Pastor said the building will be empty throughout the week until Sunday and once a month on Friday. He said the remainder of the days only his wife and himself will utilize the office space.

The Chairperson re-opened the public hearing.

There was no one present for or against the application.

Mr. Allen moved to close the public hearing.

Ms. Dixon seconded the motion.

The public hearing was closed.

The Assistant Corporation Counsel said the Applicant is not proposing additional site work or expanding the footprint of the building. He said the application is considered a Type II action under SEQRA.

Ms. Smith asked if the Zoning Board of Appeals grants the area variance, would the Applicant be able to utilize the building or begin working on the premises.

The Assistant Corporation Counsel said the Applicant may not use the building as a House of Worship or begin construction on the site until the Planning Board issues site plan approval and the Building Permits issued permits.

Ms. Dixon moved to declare the application a Type II action under SEQRA.

Ms. Lindell seconded the motion.

The motion passed unanimously.

Mr. Allen moved to approve the Area Variance as requested

Ms. Dixon seconded the motion.

The motion passed unanimously via roll call vote.

NEW BUSINESS

Appeal No. 2019-22

Applicant: Jeff Wilkinson

Owner: 121 Lander Street LLC

Location: 121 Lander Street

Requesting an **AREA Variance** for 2 feet on the front yard setback, 5 feet on the side yard setbacks and 4 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

Jeff Wilkinson, Project Architect, and Carlos Carbonero appeared on behalf of the property owner before the Board.

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

- Building was vacant for years and reverted to its most restrictive use;
- Renovating existing masonry structure constructed circa 1860;
- Obtained Architectural Review Commission approval for exterior work in October;
- Intending to change the use of the building into a four-family dwelling;
- Sufficient parking availability on the street;
- No change to the footprint of the building;
- Requesting approval for the setbacks and parking;

Ms. Dixon confirmed the vacant lot next door falls under the same ownership.

The Project Architect said the intent for the lot next door is to construct a new building later.

Mr. Papaleo confirmed the building at 121 Lander Street was previously used as a three-family dwelling.

Ms. Smith confirmed the units are approximately 800 sq. ft. She confirmed every unit will each have separate bathrooms and kitchens.

The Chairperson opened the public hearing.

Michele Williams, 58 Carson Avenue, asked for a clarification on the proposed use of the building.

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

Mr. Allen moved to close the public hearing.

Ms. Dixon seconded the motion.

The motion passed unanimously.

Ms. Lugo confirmed the building will be used as a four-family dwelling with four (4) one-bedroom apartments.

The Assistant Corporation Counsel said the application is an unlisted action under SEQRA and the Board must declare itself Lead Agency and issue a Negative Declaration prior to any vote on the application.

Ms. Dixon moved to declare the Zoning Board of Appeals Lead Agency pursuant to SEQRA.

Ms. Lindell seconded the motion.

The motion passed unanimously.

Ms. Lindell moved to issue a Negative Declaration pursuant to SEQRA.

Ms. Dixon seconded the motion.

The motion passed unanimously.

Ms. Dixon moved to approve the Area Variance as requested

Ms. Lindell seconded the motion.

The motion passed 6-1 via roll call vote.

(Mr. Allen voted against the application).

Appeal No. 2019-23

Applicant: Carol J Cameron-Francis

Owner: Carol J Cameron-Francis

Location: 346 South Street

Requesting an **AREA Variance** for 5.8 feet and 7.2 feet on the side yard setbacks and 16 feet on the rear yard setback, which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low Density Residential Zone.

Carol Cameron, property owner, and Kevin Babcock, Project Contractor, appeared before the Board.

The Project Contractor gave a brief overview of the application and highlighted the following:

- Installing a 340 sq. ft. addition to the rear of building;
- No proposed change to the use of the building or the existing garage;
- Rear addition will be utilized by a family member;
- Proposed addition triggered compliance with the side yard setbacks;

Ms. Dixon said the application is not eligible for a vote at tonight's meeting.

The Assistant Corporation Counsel said the project lies within 500 feet of South Street, a County road, and the application must be forwarded to the County for review per General Municipal Law §239. He said the County has up to 30 days to send a response. The Board may not vote on the application until either the time has passed or the County issues a response. He said for tonight's purposes the Board may declare the action a Type II action and open the public hearing.

Ms. Lindell confirmed the use of the building is currently a single-family dwelling.

The Project Contractor said the addition is relatively small, approximately 12 x 16 feet.

The Chairperson opened the public hearing.

There was no one present for or against the application.

Mr. Allen moved to close the public hearing.

Ms. Dixon seconded the motion.

The motion passed unanimously.

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

Ms. Dixon seconded the motion.

The motion passed unanimously.

The application was tabled and the Applicant was asked to return to the next Zoning Board of Appeals meeting on November 26, 2019.

Appeal No. 2019-24

Applicant: Michelle Williams
Owner: Greenheart Holding, LLC
Location: 58 Carson Avenue

Requesting an **AREA Variance** for 8 feet on the lot width, 10 feet on the side yard setbacks and 4 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low Density Residential Zone.

Michele Williams, Applicant, and Pedro Montes appeared before the Board on behalf of the property owner.

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

- Expanding the use of the building into a two-family dwelling within a preexisting building;
- Not proposing to demolish the building;
- Proposing residential units on the 1st and 2nd floor with an accessory apartment, for an office space/studio, in the basement;
- Requesting approval for four (4) off-street parking spaces and the corresponding setbacks.

Ms. Smith asked who redacted the application.

The Secretary said Anthony Williams (the Applicant's husband) redacted the information on the application packets at the time of submission.

Mr. Papaleo confirmed the property was recently sold in August. He asked for the intent of the project.

The Applicant said the intent is to renovate the building and sell the property.

Mr. Montes submitted the floor layout of the building for consideration (which was made part of the record).

The Board discussed the interior layout of the building.

Ms. Lindell confirmed a kitchen will be added to the first floor.

The Chairperson opened the public hearing.

There was no one present for or against the application.

Ms. Dixon moved to close the public hearing.

Ms. Lindell seconded the motion.

The motion passed unanimously.

Ms. Lindell moved to declare the application a Type II action under SEQRA.

Mr. Allen seconded the motion.

The motion passed unanimously.

Ms. Lindell moved to approve the Area Variance as requested

Ms. Dixon seconded the motion.

The motion passed 4-3 via roll call vote.

(Mr. Allen voted against the application).

(Mr. Papaleo voted against the application).

(Ms. Smith voted against the application).

DISCUSSION

Planning Board notice of intent for Lead Agency

The Assistant Corporation Counsel said the City of Newburgh Planning Board currently has a pending application for a lot line change for properties commonly known as 37 and 39 Dubois Street. He said the lot line change application is a portion of a larger, scattered site development commonly known as “RUPCO Newburgh CORE Revitalization Phase 2.” He said at the October 15, 2019 Planning Board meeting, the Planning Board declared its intent for Lead Agency pursuant to SEQRA. He said Notices of the Intent to be Lead Agency were forwarded accordingly to all interested/involved agencies. He said the Zoning Board of Appeals should determine if they are comfortable letting the Planning Board establish itself as Lead Agency. He said the Office of Corporation Counsel recommends allowing the Planning Board to establish itself as Lead Agency.

The Board discussed the notice of intent from the Planning Board.

Mr. Allen moved to allow the Planning Board to establish itself as Lead Agency pursuant to SEQRA.

Ms. Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Approval of Minutes

Mr. Allen moved to approve the September 2019 minutes.

Ms. Dixon seconded the motion.

The motion passed unanimously.

With no further business to discuss, the meeting was adjourned at 8:00 p.m.

Respectfully Submitted:

Approved:

Omar E. Balbuena-Palma, Secretary

Joanne Lugo, Chairperson