

REGULAR MEETING

September 23, 2008

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 September 23, 2008 at 7:30 p.m. at the Newburgh Activity Center, 401 Washington Street, Newburgh, NY.

Members Present: Joanne Lugo, Chairperson
Victor Mirabelli
Mary Ann Prokosch
Mirta Rivas
Barbara Smith

Also Present: Geoffrey Chanin, Corporation Counsel
Michelle Mills, Secretary to the Board

Motion Made to Approve Minutes of July 22, 2008 and August 26, 2008 Meetings

Motion Made: Victor Mirabelli

Motion Second: Mary Ann Prokosch

Motion Carried: Unanimous

Old Business:

- 1. Appeal No. 2008-12**
Location: 76 Courtney Avenue
Applicant: Rene Garcia
Owner: Rosalba Properties, LLC

Requesting USE Variance to permit a restaurant and an AREA Variance for 8 feet on side yard setback and nineteen (19) parking spaces in a R2 Zone.

Rene Garcia appeared before the Board with his daughter who translated in English on his behalf. She explained to the Board how he wanted to expand his current deli business into a restaurant for both eat-in and take-out use. He has been in business for two years and has not been very successful. Joseph Sandridge of Coppola Associates spoke on behalf of Mr. Garcia and presented photos and site plan maps. The Board was advised of the plan to construct a 476 foot addition onto the rear of the building and how the entire first floor space would be converted into a restaurant. Noel Spencer, Mr. Garcia's accountant, advised the Board of Mr. Garcia's financial position which includes a small cash flow. He went on to explain how the proposed plan will help Mr. Garcia expand his business. MaryAnn Prokosch inquired about a liquor license and was advised that the deli currently sells bottled beer and will apply for a liquor license at a later date. Victor Mirabelli stated that he is personally aware of constant congestion currently in that area and has a problem with a proposed restaurant. He is confident that it would result in a negative impact on the area. He also explained that it is not the job of the Board to grant variances because a business is not profitable. Both Barbara Smith and Joanne Lugo agreed with

the traffic congestion situation and how that neighborhood could not accommodate a restaurant with additional required parking spaces.

At this time the Chairperson opened the public hearing by reading the text of the notice.

No one spoke in favor of the request.

The following people spoke in opposition to the request:

1. Mr. Salazar - Henry Avenue: Stated traffic congestion problems.
2. Mr. Vitale - Overlook Place: Stated numerous reasons against restaurant.
3. Rev. Campbell – Liberty Street; Stated parking problems already existing.
4. Ms. DeMarco – Courtney Avenue; Stated overpopulation in neighborhood.
5. Mr. Ramirez – Overlook Place; Stated objections to restaurant as inappropriate to area.

The public hearing was duly convened and completed on September 23, 2008.

Motion to Close Public Hearing: Victor Mirabelli

Motion Second: Barbara Smith

Roll Call Vote: Unanimous

Motion Carried: Unanimous

Zoning Board of Appeals to assume Lead Agency status for S.E.Q.R.A.:

Motion Made: Mirta Rivas

Motion Second: Victor Mirabelli

Roll Call Vote: Unanimous

Motion Carried: Unanimous

Zoning Board of Appeals declares a Negative Declaration for S.E.Q.R.A.:

Motion Made: Victor Mirabelli

Motion Second: MaryAnn Prokosch

Roll Call Vote: 4 Nay/ 1 Yea (Joanne Lugo)

Motion Defeated: 4:1

Motion Made to approve **USE VARIANCE**: Victor Mirabelli

Motion Second: Mirta Rivas

Roll Call Vote:

Mirta Rivas: No

Mary Ann Prokosch: No

Victor Mirabelli: No

Barbara Smith: No

Joanne Lugo: No

Motion Defeated: Unanimous

Motion Made to approve **AREA VARIANCE**: MaryAnn Prokosch

Motion Second: Victor Mirabelli

Roll Call Vote:

Mirta Rivas: No

Mary Ann Prokosch: No

Victor Mirabelli: No
Barbara Smith: No
Joanne Lugo: No
Motion Defeated: Unanimous

NEW BUSINESS:

- 1. Appeal No. 2008-22**
Location: 140 West Street
Applicant: Juliet Catlin

Requesting an Area Variance for 7 feet on side yard setback, which does not meet the requirements of the Schedule of Use and Bulk Regulations in an R1 Zone, for a previously constructed deck.

Juliet Catlin appeared before the Board and advised that she was unaware of the required permit and variance for the deck which has already been constructed. She stated that this is the first house she has owned and the contractor she used did not advise her of the requirements. The deck has been inspected and meets Code compliance. The house is currently for sale.

At this time the Chairperson opened the public hearing by reading the text of the notice. No one spoke in favor or opposition to the request.

The public hearing was duly convened and completed on September 23, 2008.

Motion to Close Public Hearing: Victor Mirabelli

Motion Second: Mirta Rivas

Roll Call Vote: Unanimous

Motion Carried: Unanimous

Zoning Board of Appeals to assume Lead Agency status for S.E.Q.R.A.:

Motion Made: Mirta Rivas

Motion Second: Victor Mirabelli

Roll Call Vote: 4 Yeah/ 1 Nay (Barbara Smith)

Motion Carried: 4:1

Zoning Board of Appeals declares a Negative Declaration for S.E.Q.R.A.:

Motion Made: Victor Mirabelli

Motion Second: Mirta Rivas

Roll Call Vote: Unanimous

Motion Carried: Unanimous

Motion Made to approve **AREA VARIANCE**: Victor Mirabelli

Motion Second: Mirta Rivas

Roll Call Vote: Unanimous

Motion Carried: Unanimous

2. Appeal No. 2008-23

Location: 784 Broadway

Applicants/Owners: Mark and Lorraine Gamma

Requesting a Use Variance to allow for a film sound studio/theater in a C2 Zone.

Mark Gamma appeared before the Board to present his plans for an actors' studio and blackbox theater for local actors to conduct workshops and plays. He described his proposal a unique space and good opportunity for Newburgh residents. Ronald Hughes spoke on behalf of Mr. Gamma and informed the Board that Mr. Gamma currently owns several properties in that area. He described the proposed location and indicated that there are sufficient parking spaces available. Mr. Hughes also commented on the considerable amount of time, money and effort expended on this project by the Gamma family.

At this time the Chairperson opened the public hearing by reading the text of the notice.

The following people spoke in favor of the request:

Reverend Campbell, Liberty Street : " Great thing for Community"

Joe DiRoma. Maple Street: " Great idea for neighborhood"

No one spoke in opposition to the request.

The public hearing was duly convened and completed on September 23, 2008.

Motion to Close Public Hearing: Mirta Rivas

Motion Second: MaryAnn Prokosch

Roll Call Vote: Unanimous

Motion Carried: Unanimous

Zoning Board of Appeals to assume Lead Agency status for S.E.Q.R.A.:

Motion Made: MaryAnn Prokosch

Motion Second: Mirta Rivas

Roll Call Vote: Unanimous

Motion Carried: Unanimous

Zoning Board of Appeals declares a Negative Declaration for S.E.Q.R.A.:

Motion Made: Victor Mirabelli

Motion Second: MaryAnn Prokosch

Roll Call Vote: Unanimous

Motion Carried: Unanimous

Motion Made to **approve AREA VARIANCE**: Victor Mirabelli

Motion Second: MaryAnn Prokosch

Roll Call Vote: Unanimous

Motion Carried: Unanimous

OTHER:

Motion to Adjourn: Victor Mirabelli
Motion Second: MaryAnn Prokosch
Roll Call Vote: Unanimous
Motion Carried: Unanimous
Meeting adjourned 8:30p.m.

The next meeting of the Newburgh Zoning Board of Appeal will be held on October 28, 2008.

Respectfully Submitted:

Approved:

Michelle M. Mills, Secretary

Joanne Lugo, Chairperson