

**REGULAR MEETING**

**June 23, 2009**

**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 May 26, 2009 at 7:30 p.m. at the Newburgh Activity Center, 401 Washington Street, Newburgh, NY.

Members Present: Victor Mirabelli  
MaryAnn Prokosch  
Mirta Rivas  
Barbara Smith  
Joshua Smith

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

**Motion Made to Approve Minutes of May 26, 2009 Meetings**

**Motion Made: Mirta Rivas**

**Motion Second: Victor Mirabelli**

**Motion Carried: Unanimous**

**One-Year Extension Request**

- 1. Appeal No. 2008-10**  
**Location: 41 Wisner Avenue & 13 Locust Street**  
**Applicant: Newburgh Family YMCA**

**Requesting a USE Variance to allow a YMCA facility to be constructed on a property which is in both an R1 and P02 Zone.**

Appearing before the Board on behalf of the YMCA were Dominic Cordisco Esq., Doug Crossley and Greg Shaw. Mr. Cordisco advised the Board that the YMCA was seeking a one year extension of the variance(s) previously granted and that they have been regularly appearing before the Planning Board and the City Council within this last year. He presented a written chronology of the various meetings and included case law indicating that in absence of any change to the original plan, the Board should grant the extension.

MaryAnn Prokosch responded that the original application was for a Use variance, not an Area variance, that parking was not originally considered and that there are changes in the plan that were not presented to the Board originally. She believes that the plan is segmented and requires a coordinated review.

Mr. Cordisco disagreed with Mrs. Prokosch stating that he has been working with the City Planner and that the ultimate decision on bulk regulations regarding parking have not yet been established by the Planning Board. He said there is phasing not segmentation.

Barbara Smith indicated that there were other issues for the Board to consider such as the project funding. She inquires about the proposed dome and was told by Mr. Cordisco that the original plans to the dome

have changed and that now there would be three smaller domes instead of one large dome. He went on to advise the Board that this plan was the only viable option for the City right now and that their legal deliberations did not include funding issues.

David Schwartz asked Mr. Cordisco if he would provide the current financial information and Mr. Cordisco asked him why he wanted it.

Victor Mirabelli objected to the statement that this was the only viable option for the City.

MaryAnn Prokosch insisted that there were changes to the original project, Mr. Cordisco reiterated that there were no changes to the Use request.

Geoffrey Chanin advised the Board that it was their responsibility to determine if any changes were "significant and material".

Joshua Smith stated that this was new information the Board was just receiving.

MaryAnn Prokosch repeated that there are changes to the original application.

Joanne Lugo canvassed the Board to move to vote.

Motion to approve one-year extension: Victor Mirabelli

Motion second: Mary Ann Prokosch

Roll Call Vote:

Mirta Rivas: Yes

MaryAnn Prokosch: No

David Schwartz: No

Victor Mirabelli: No

Barbara Smith: No

Joanne Lugo: No

Motion Defeated: 1;5

## **Old Business:**

- 1. Appeal No. 2009-13 & 14**  
**Location: 185 & 185A West Street**  
**Applicants/Owners: Michael Zimet & Mari Rendich**

**Requesting a Use Variance for a two family dwelling and an AREA Variance for 1.7 feet on front yard setback, 3.6 feet on side yard setback and 6.3 feet on rear yard setback, which does not meet the requirements of the Schedule of Use and Bulk Regulations in a R1 Zone.**

The owners of the property appeared before the Board and advised that when they purchased the property in 2007 from a doctor, they thought they bought a legal two family dwelling. They were advised by Code Compliance that a new certificate of occupancy was required for the apartment. There are eight people living in the main house and three in the apartment.

The Board advised the owners that at the last meeting, several neighbors on the block appeared and voiced major concerns of the negative effect on the neighborhood and the boarding house type of situation the property is presenting. They provided the owners with pictures of the property showing furniture on the porch, strewn garbage and general disarray. They were further advised that the tenants should be consulted about loud music and to keep the neighbors' concerns in mind.

The public hearing was duly convened and completed on May 26, 2009.

Motion to Close Public Hearing: Joshua Smith

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: Victor Mirabelli

Motion Second: MaryAnn Prokosch

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: David Schwartz

Roll Call Vote: Unanimous

**Motion Carried: Unanimous**

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

Motion Second: MaryAnn Prokosch

Roll Call Vote: 2 Aye (Rivas, Lugo)/4 Nay (Prokosch, Schwartz, Mirabelli, Smith, Smith)

**Motion Defeated: 2;4**

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

Motion Second: MaryAnn Prokosch

Motion Defeated: Unanimous

Meeting Adjourned 8:10 p.m.

Respectfully Submitted:

Approved:

---

**Michelle M. Mills, Secretary**

---

**JoAnne Lugo, Chairperson**