

REGULAR MEETING
January 25, 2011

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 January 25, 2011 at 7:30 p.m. at the Newburgh Activity Center, 401 Washington Street, Newburgh, NY.

Members Present: Joanne Lugo
Victor Mirabelli
MaryAnn Prokosch
David Schwartz
Barbara Smith
James Kulisek

Also Present: Michelle Kelson, Assistant Corporation Counsel
Michelle Mills, Secretary to the Board
Craig Marti, City Engineer
Steven Hunter, Code Compliance Supervisor
Ian McDougal, City Planner

Motion Made to Approve Minutes of December 28, 2010 Meeting

Motion Made: Victor Mirabelli

Motion Second: James Kulisek

Motion Carried: Unanimous

One Year Extension:

1. Appeal No. 2010-02

Applicant/Owner, Statistical Analysis, Inc.

Location: 302 North Water Street

Requesting a **USE Variance** to permit the redevelopment of the existing Regal Bag property for mixed residential uses consisting of 55 adaptive re-use residential units in the Regal Bag factory building, 48 waterfront townhouses, 48 units in two multi-family buildings and 14 town houses along Martin Luther King, Jr. Boulevard; an **Area Variance** for 7 feet on townhouse lot width, 58 feet on townhouse lot depth, 3 feet on townhouse front yard setback, 20 feet on townhouse with no shared wall side yard setback, 20 feet on townhouse rear yard setback, 5 feet or .5 story on townhouse height and 25 feet or 2.5 stories on apartment building height; 121 parking spaces, which do not meet the requirements of the Schedule of Use and Bulk Regulations in a W1 Zone and a variance for required road frontage under Section 300-11(E) of the Zoning Code.

Mr. Kaplan appeared before the Board and advised that his request for an extension was due to the challenges in the real estate market. It is his intention to start the project this year.

Motion Made to approve one year extension: Victor Mirabelli

Motion Second: Mirta Rivas

Roll Call Vote: Unanimous

Motion Carried: Unanimous

Old Business:

1. Appeal No. 2010-20

Applicant: Balmville Construction, Inc.

Owner: Mark Medynski

Location: 397 Grand Street

Requesting an **AREA Variance** for 3,540 square feet on lot area, 60.26 feet on lot depth, 7.7 feet on front yard setback and 14.6 feet on rear yard setback for the construction of a new single family dwelling, which do not meet the requirements of the Schedule of Use and Bulk Regulations in an R-1Zone.

Ken Lytle appeared before the Board and provided details of items discussed at a recent workshop regarding this project. He proceeded to advise of the changes made to the original proposed project and addressed comments previously made through public comment.

Board members inquired why the applicant was re-appearing before them after previously being denied the requested variance. Steve Hunter advised that with his approval, by City Code, if substantial changes are made to an original proposed project, the applicant is not subject to the required one year waiting period for re-application.

Victor Mirabelli stated that he contacted attorneys at the State level regarding the re-hearing of this appeal and believed it to be illegal. Michelle Kelson explained that the application was not a re-hearing but rather a re-application after denial according to the City Code.

David Schwartz requested verification on the actual size of the proposed new construction. MaryAnn Prokosch stated that although the use is permitted she feels the lot is undersized and has concerns that new dwellings do not need site plan approval. She feels that the variance request is substantial and that other remedies could be pursued by the applicant.

JoAnne Lugo re-opened the public part of the hearing for anyone who wished to opine. No one spoke in favor of the applicant. The following people spoke in opposition to the applicant:

Ron Hughes: Read a prepared letter to the Board stating that the re-hearing of this application was illegal. He also read a passage from the Orange County Planning Federation regulations.

Joseph Maraday- 392 Grand Street: Feels insulted that the plan is even being considered. He stated that the proposed house plan is completely out of character with the rest of the block.

Kippy Boyle - 450 Grand Street: She does not understand the intentions of the legal counsel. She stated that a decision to deny the requested variance was already made and instructed the Board to be aware of any unintended consequences.

Steve Affredeou- 388 Grand Street: Agreed with previous speakers.

Jeff Rollings- Broadway: Stated that the problem lies in the basic design of the house.

Ron Hughes: Stated that any application within 500 feet of Marine Drive must first have approval of the Orange County Planning Department.

JoAnne Lugo reiterated the reason for the hearing and inquired if a vote was required. Michelle Kelson described the difference between a re-hearing and a re-application and advised that the Board should conduct a vote.

The public hearing was duly completed on January 25, 2011

Motion to Close Public Hearing: MaryAnn Prokosch

Motion Second: Victor Mirabelli

Roll Call Vote: 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: 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 Defeated: Unanimous

2. Appeal No. 2010-22

Applicant/ Owner: Sonia Arias

Location: 116 Renwick Street

Requesting a **USE Variance** to allow for a three family residential dwelling and an **AREA Variance** for 2700 square feet on lot area, 25 feet on lot width, 8 feet on lot depth and 6 parking spaces, which does not meet the requirements of the Schedule of Use and Bulk Regulations in an R-2 Zone.

Jonathan Cella, project engineer for the applicant appeared before the Board and advised that they are seeking to restore the property to a three family dwelling. He presented floor plans and advised of the extensive interior renovations needed to the building. He further advised that a two family dwelling would not be financially feasible. No exterior modifications, with exception of new windows, are planned and the work is ready to begin immediately.

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 applicant:

The public hearing was duly convened and completed on January 25, 2011

Motion to Close Public Hearing: Victor Mirabelli

Motion Second: David Schwartz

Roll Call Vote: **Unanimous**

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

Motion Made: MaryAnn Prokosch

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: MaryAnn Prokosch

Motion Second: Victor Mirabelli

Roll Call Vote: Unanimous

Motion Carried: Unanimous

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

Motion Second: James Kulisek

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

Meeting Adjourned 9:15 p.m.

Respectfully Submitted:

Approved:

Michelle M. Mills, Secretary

Joanne Lugo, Chairperson