

**REGULAR MEETING  
July 26, 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 July 26, 2011 at 7:30 p.m. at the Newburgh Activity Center, 401 Washington Street, Newburgh, NY.

Members Present: Joanne Lugo  
Victor Mirabelli  
Mirta Rivas  
David Schwartz  
Barbara Smith

Members Absent: James Kulisek  
Mary Ann Prokosch

Also Present: Michelle Kelson, Corporation Counsel  
Tiffany Reis, Assistant Corporation Counsel

**Motion to Approve Minutes of June 28, 2011 Meeting**  
**Motion Made: Victor Mirabelli**  
**Motion Second: Barbara Smith**  
**Motion Carried: Unanimous**

**New Business:**

**1. Appeal No. 2011-05**  
**Applicant: Mohammed Alshaikh**  
**Owner: Russell C. Turiak**  
**Location: 164 Broadway**

**Requesting a Use Variance for a Grocery Store and an Area Variance for 18,726.4 feet on lot area, 80.1 feet on lot width, 86 feet on lot depth, 5 feet on front yard setback, 5 feet on side yard setback, .5 feet on building height and 8 parking spaces, which do not meet the requirements of the Schedule of Use and Bulk Regulations of the Zoning Code in a TC-1 Zone.**

Mirta Rivas recused herself from this agenda item since the Applicant is her professional client. Anthony Coppola, Project Architect, Russell Turiak, building owner and Yolanda and Mohammed Alshaikh, grocery store tenants, appeared before the Board to discuss their request for a grocery/deli on the first floor of the premises. The top three floors of the building are occupied apartments. The first floor is 642 square feet and will need only minor interior work. Mr. Turiak presented financial statements to the Board since his purchase of the property in 2005. The tenants have applied for all necessary licenses to operate a business selling sandwiches, beverages and snacks, excluding alcohol.

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 July 26, 2011.

Motion to Close Public Hearing: Victor Mirabelli

Motion Second: David Schwartz

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: David Schwartz

Roll Call Vote: Unanimous

**Motion Carried: Unanimous**

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

Motion Made: David Schwartz

Motion Second: Victor Mirabelli

Roll Call Vote: Unanimous

**Motion Carried: Unanimous**

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

Motion Second: Barbara Smith

Roll Call Vote: Unanimous

**Motion Carried: Unanimous**

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

Motion Second: David Schwartz

Roll Call Vote: Unanimous

**Motion Carried: Unanimous**

## **2. Appeal No. 2011-06**

**Applicant/Owner: Real Management Corp. (Vincent Cappelletti)**

**Location: 280 Broadway**

**Requesting an AREA Variance for 80 parking spaces, which do not meet the requirements of the Schedule of Use and Bulk Regulations in a C2 Zone.**

Vincent Cappelletti appeared before the Board to request a variance for a 80 off-street parking spaces to comply with the amount required by Code for a proposed new two story office building on the rear lot of the property at 280 Broadway. He advised that he has met with the Codes Department, Engineering and the Planning Board and has amended his original site plan. He is aware that the original building on the site was short of required parking spaces and that any new construction would need to provide additional spaces to meet Code requirements. He believes that the back lot of the property is under utilized and that the required spaces are available but are not being used by the public.

Victor Mirabelli stated that the area is very congested with traffic and parking is difficult.

Michelle Kelson advised the Board that the building predates the Code requirement for parking and that the new construction must take the parking requirement into consideration for the both old and new buildings, which is why the project requires a variance for 80 parking spaces.

At this time the Chairperson opened the public hearing by reading the text of the notice. George Kaknis spoke to the Board on behalf of his mother who owns property adjacent to the lot. He stated that parking is already an enormous problem in the area and he questioned bringing in more Office space without the proper parking. The public hearing was duly convened and completed on July 26, 2011.

Motion to Close Public Hearing: Victor Mirabelli  
Motion Second: Barbara Smith  
Roll Call Vote: Unanimous  
**Motion Carried: Unanimous**

At this time Joanne Lugo stated that she would like to have an advisory opinion from the Planning Board before making any final decisions. The Board concurred.

Motion made to refer to item to Planning Board for Advisory Opinion: Victor Mirabelli  
Motion Second: David Schwartz  
Roll Call Vote: Unanimous  
**Motion Carried: Unanimous**

Meeting Adjourned 8:15 p.m.

Respectfully Submitted:

Approved:

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**Michelle Mills, Secretary**

**Joanne Lugo, Chairperson**