

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 April 25, 2023 at 7:00 p.m. at the Activity Center, 401 Washington Street, Newburgh, New York.

Members Present: Michael Papaleo (Acting Chairperson)
Corey Allen
Ben Brandt
Tiffany Buxton
Dianne Dixon
Melvin Hales (alternate)
Julie Lindell

Absent: Joanne Lugo Chairperson

Also Present: Jeremy Kaufman, Assistant Corporation Counsel
J.K. Gentile, Secretary

The Chairperson called the meeting to order at 7:06 p.m. after confirming a quorum.

NEW BUSINESS

APPEAL NO. 2023-09

Applicant: Eli Vaknin
Owner: 35 Johnston, LLC
Location: 35 Johnston Street

Requesting an **AREA Variance** for 5 feet on the South side yard setback, 13.5% on lot coverage and 8 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

Eli Vaknin and Dan Gilbert appeared before the Board.

Mr. Vaknin gave an overview of the proposed project.

Ms. Dixon asked why they could not build within the City Code variance requirements to meet the current code.

Mr. Vaknin said it was not considered. He said there are new renovations within the City that are non-conforming and need a variance to meet the current City Code requirements.

Mr. Brandt asked if this new construction conforms with the existing façade setbacks on the block.

Mr. Gilbert said yes.

Mr. Brandt asked if they would consider a redesign that effectively granted some view relief to the neighbor in the backyard by moving the building 3 to 4 feet up from the lot line. He said the proposed building is blocking the neighbors' windows and does not appear to allow for light and air.

The Chairperson opened the public hearing.

Drew Kartiganer spoke against the application.

Dianne Dixon moved to close the public hearing.

Julie Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Ms. Dixon asked if there is a 10-unit building next door.

Mr. Gilbert said there is a 7-unit apartment on one side and a 3-unit apartment on the other side.

Ms. Lindell said the submitted parking study appears comprehensive.

Mr. Allen disagreed and said parking does not seem to take into account later evening parking when most people are home.

Mr. Vaknin asked if they were to propose moving the building would that change the variance request.

The Assistant Corporation Counsel confirmed because the moving the building location or reducing the building size could affect setback and/or lot coverage issues. He said a new Informational report would need to be issued to reflect any new variance calculations.

The applicant elected to proceed with a vote on the application.

Dianne Dixon moved to declare itself lead agency for SEQRA.

Julie Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Dianne Dixon moved to declare a negative declaration under SEQRA.

Julie Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Dianne Dixon moved to approve the application as submitted.

Julie Lindell seconded the motion.

The motion was denied 4-3 via roll-call vote.

APPEAL NO. 2023-10

Applicant: Chris Berg/Berg + Moss Architects
Owner: Darkei Hakolelim, Inc.
Location: 60 Benkard Avenue

Requesting an **AREA Variance** for 2.7 feet on the south front yard setback. 10 feet on the east front yard setback, 1.1 on the west side yard setback, 5 feet on the north side yard setback, and 17% on lot coverage and 1 off-street parking space which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

Chris Berg appeared before the Board and gave an overview of the proposed project.

Ms. Lindell said there is limited parking at night on Benkard Avenue.

Mr. Berg said the entrance to the new basement apartment is located on Little Monument Street. He said there is available parking on Little Monument Street and South William Street.

The Chairperson opened the public hearing.

No one was present for or against the project.

Dianne Dixon moved to close the public hearing.
Julie Lindell seconded the motion.
The motion passed unanimously via roll-call vote.

Dianne Dixon moved to declare the action Type II for SEQRA.
Julie Lindell seconded the motion.
The motion passed unanimously via roll-call vote.

Dianne Dixon moved to approve the application as submitted.
Julie Lindell seconded the motion.
The motion passed unanimously via roll-call vote.

APPEAL NO. 2023-11

Applicant: Alec Klee Galli Architects
Owner: Fracasse Realty, LLC
Location: 33 South Robinson Avenue

Requesting an **AREA Variance** for 6 off street parking spaces, which does not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential Zone with Commercial Overlay.

Alec Galli and Richard Fracasse appeared before the Board.

Alec Galli gave an overview of the proposed project.

Ms. Dixon asked to confirm if this proposal is for a change of use.

Mr. Fracasse said yes.

The Assistant Corporation Counsel said this proposal is not a change to the building footprint. He said the proposal is to change a portion of the building currently used as professional office to a restaurant. The change of use request is what triggered the bulk requirements compliance, and in turn, an appeal from those requirements.

Ms. Dixon asked if the Sacred Heart letter was submitted in lieu of a parking study.

The Assistant Corporation Counsel said the letter acts as evidence in consideration that there is adequate parking alternatives within the area. Whatever weight the Board wants to afford that letter is up to the Board.

Ms. Dixon asked how patrons are made aware of the alternative parking in the area.

Mr. Fracasse said an employee is stationed at the entrance of the parking lot to direct traffic and inform the locations of additional parking availability.

The Chairperson opened the public hearing.

No one was present for or against the project.

Dianne Dixon moved to close the public hearing.

Julie Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Dianne Dixon moved to declare the action Type II for SEQRA.

Julie Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Dianne Dixon moved to approve the application as submitted.

Julie Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

APPEAL NO. 2023-15

Applicant: Eldz Property LLC
Owner: Eldz Property LLC
Location: 199 Chambers Street

Requesting an **AREA Variance** for 12 feet on lot depth and 10 feet on the North front yard setback, 10 feet on the East front yard setback, 5 feet on the South side yard setback, 5 feet on the West

side yard setback, 70 % on lot coverage and 11 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

David Niemotko appeared before the Board and gave an overview of the proposed project.

Ms. Dixon asked to confirm the proposed layout for the 2nd and 3rd floors.

Mr. Niemotko said the 2nd and 3rd floor will each have one 1-bedroom and one 2-bedroom apartments.

Ms. Dixon said the parking study is incomplete and incorrect. The submitted parking study reflects the identical photos for two different time stamps. She said the study is also not comprehensive. The parking study should reflect multiple days of the week, and include various times of the day, including pre- and post- work hours.

Mr. Papaleo asked if the building is currently vacant.

Mr. Niemotko said yes.

Ms. Dixon asked if the owner would consider reducing the number of total units in order to reduce the off-street parking request.

Mr. Niemotko said he would inquire with the owner.

Ms. Dixon said if finances are dictating the number of units, she asked for submission of an economic feasibility study for the Board's review.

The Chairperson opened the public hearing.

Cam Jones spoke against the application.

Cheryl Jones spoke against the application.

Dianne Dixon moved to close the public hearing.

Julie Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Dianne Dixon moved to declare the action Type II for SEQRA.

Julie Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

The applicant requested a table of its application to a future meeting.

APPROVAL OF MINUTES

Diane Dixon moved to approve the March 2023 minutes as submitted.

Julie Lindell seconded the motion.

The motion was approved 7-0 via roll-call vote.

EXECUTIVE SESSION

Dianne Dixon moved to enter into the Executive Session.

Julie Lindell seconded the motion.

The motion was approved 7-0 via roll-call vote.

Dianne Dixon moved to exit out of the Executive Session.

Julie Lindell seconded the motion.

The motion was approved 7-0 via roll-call vote.

Dianne Dixon moved to rehear application Index #2023-05 pursuant to §300-116(J).

Julie Lindell seconded the motion.

The motion was approved 7-0 via roll-call vote.

With no further business to discuss, the meeting was adjourned at 8:45 p.m.

Respectfully submitted,

J.K. Gentile

Secretary to the Land Use Boards