

**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 May 23, 2023 at 7:00 p.m. at the Activity Center (Hall of Fame building), 401 Washington Street, Newburgh, New York.

Members Present: Joanne Lugo Chairperson  
Ben Brandt  
Tiffany Buxton  
Melvin Hales (alternate)  
Julie Lindell  
Michael Papaleo

Absent: Corey Allen  
Dianne Dixon

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

The Chairperson called the meeting to order at 7:05 p.m. after confirming a quorum.

**OLD BUSINESS**

**APPEAL NO. 2023-05**

**Applicant:** Chris Berg, R.A./Berg + Moss Architects, PC  
**Owner:** Newburgh SHG 62 LLC  
**Location:** 205 Broadway

Rehearing of application for **AREA Variance** for 21 feet on lot depth, 20 feet on the rear yard setback and 10% on the landscaped area which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Broadway Corridor Zone.

The Assistant Corporation Counsel said the ZBA denied the application at the March 28, 2023. The ZBA then voted unanimously at the April 25, 2023 meeting to rehear the application.

Chris Berg appeared before the Board and gave an overview of the proposed project. He said the issues are with the lot itself. He said it is an old building that was built without a rear yard. He said they propose to legalize what already exists.

The Assistant Corporation Counsel referred to City Code 300-115 for area variance criteria.

Mr. Brandt asked what the justification is for changing the use of the building.

Mr. Berg said the previous owner converted the building from a three-family to a five-family illegally. The current owner would like to keep the building as a five-family and take steps to bring the building into compliance.

Ms. Lindell asked to confirm the total number of apartments.

Mr. Berg said there are five apartments currently in use.

Mr. Papaleo asked what the current Certificate of Occupancy reflects and allows.

Mr. Berg said the current Certificate of Occupancy is three units.

Mr. Brandt said the ZBA has denied applications that unnecessarily increased the density of the neighborhood without substantial justification in the past.

Mr. Lindell said a five-family dwelling is allowed on the Broadway Corridor.

Mr. Brandt said he has not heard an argument from the applicant that justified the increase in density of this neighborhood.

The Chairperson moved to approve the application as submitted.

Julie Lindell seconded the motion.

The motion passed 5-1 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.

Sabastian Carlton and Jesse Shih appeared before the Board.

Mr. Shih addressed the concerns raised by the Board at the last ZBA meeting regarding the parking study,

Mr. Brandt asked the applicant to describe the necessity to change from a two-unit residential dwelling to a four-unit residential dwelling.

Mr. Carlton said there is adequate parking in the area to accommodate the change. He said the parking requirement will actually be reduced from its original use as a restaurant as the salon use requires less available on-street parking.

Ms. Buxton said the parking study would have been more comprehensive if they showed parking further up Gidney Avenue. She said the study shows several feet of empty spaces in front of a parking lot where parking is not allowed.

The Assistant Corporation Counsel asked the applicant to address the question brought up by the Board at the last meeting regarding the economic feasibility of increasing the residential units.

The applicant said it did not provide this information in connection with its current submission.

Mr. Brandt said his concern is not so much parking. He said his concern is the added density to the neighborhood.

Mr. Carlton said the client is maximizing the housing availability within what the code allows.

Julie Lindell moved to approve the application as submitted.

Michael Papaleo seconded the motion.

The motion passed 5-1 via roll-call vote.

### **NEW BUSINESS**

#### **APPEAL NO. 2023-13**

**Applicant:** Will Cappelletti  
**Owner:** XP, LLC  
**Location:** 172 Dubois Street

Requesting an **AREA Variance** for 7 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential and Neighborhood Commercial Zone.

Soledad Alvarez appeared before the Board and gave an overview of the proposed project.

The applicant confirmed there is no proposed change to the building footprint, and the proposal is a change of use to convert the current use of a corner store to a restaurant.

The Assistant Corporation Counsel said the current Certificate of Occupancy for a “corner store” predates the existing City Code.

The Board reviewed the applicant’s submitted parking study and collectively concluded that the study was insufficient to vote on the application.

The Chairperson opened the public hearing.

Carson Carter spoke in favor of the application.

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

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

The applicant requested a table of the application to the next meeting and to submit a revised parking study.

### **APPEAL NO. 2023-14**

**Applicant:** Chris Berg/Berg + Moss Architects  
**Owner:** Guy R. Larocca.  
**Location:** 211 Broadway

Requesting an **AREA Variance** for 20 feet on the rear yard setback which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Broadway Corridor Zone

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

Ms. Lindell asked if the application was presented to the Architectural Review Commission.

Mr. Berg confirmed and said the application was approved.

The Chairperson opened the public hearing.

No one was present for or against the project.

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

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

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

**APPEAL NO. 2023-12**

**Applicant:** Jon Moss/Berg + Moss Architects  
**Owner:** Newburgh SHG 8 LLC  
Newburgh SHG 9 LLC  
Newburgh SHG 10 LLC  
**Locations:** 150, 152, 156 Broadway

Requesting an **AREA Variance** for 10'-2" feet on the building height which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Broadway Corridor Zone.

Jon Moss appeared before the Board and gave an overview of the proposed project.

Mr. Brandt asked if the variance request should be denied would the proposal change the building height from five stories to four stories.

Mr. Moss said if denied they would maintain the five stories and remove the rooftop access.

The Chairperson opened the public hearing.

No one was present for or against the project.

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

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

The Assistant Corporation Counsel asked the applicant if the lot merger had been completed.

Mr. Moss said he is not aware.

The Assistant Corporation Counsel said a final vote cannot be taken until the (3) three designated lots were merged.

The application was tabled until the next meeting.

**APPEAL NO. 2023-19**

**Applicant:** Jon Moss/Berg + Moss Architects  
**Owner:** Benjamin Tilton & Celine Tilton  
**Location:** 249 Grand Street

Requesting an **AREA Variance** for 15 feet on the front yard setback, 8.2 feet on the North side yard setback, 10 feet on the South side yard setback, 18.7 feet on the rear yard setback and 11.9%

on lot coverage which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential Zone.

Jon Moss and Celine Tilton appeared before the Board.

Mr. Moss gave an overview of the proposed project.

The Chairperson opened the public hearing.

No one was present for or against the project.

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

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

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

### **APPEAL NO. 2023-20**

**Applicant:** Sean Kearney/Kearney Realty &  
Development Group, Inc.  
**Owner:** City of Newburgh  
**Location:** 140 Montgomery, 146 Montgomery Street & 137 Smith Street

Requesting an **AREA Variance** for 45 feet on the side yard setback and 74 off-street parking spaces, which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Waterfront Gateway Zone.

Sean Kearney and Jamie Logiudice appeared before the Board.

Mr. Kearney gave an overview of the proposed project. He said he has submitted a parking analysis that shows ample parking within 500 feet of the site.

Ms. Lindell asked to confirm the location of Building 1 and Building 2.

Ms. Logiudice confirmed the locations referring to the current site plan proposal.

Mr. Kearney explained the layout of the buildings using the site plan.

Mr. Brandt asked to confirm the location of the retail.

Mr. Kearney confirmed using the site plan.

Mr. Papaleo asked if this project is going have an affordable housing component.

Mr. Kearney said some will be affordable and some will be mixed income.

Mr. Papaleo asked how the project will be funded.

Mr. Kearney said tax credits, middle income housing programs and NYS Brownfield clean-up program.

Mr. Hales asked how they plan to designate who will have access to the on-site parking.

Mr. Kearney said parking tags will be issued on a first come, first served basis.

Mr. Brandt said the project proposes a significant amount of residential density.

Mr. Kearney said the project consists of (67)-one bedroom, (34)- two-bedroom, and (17)-3 bedroom apartments. He said the project meets the minimum thresholds for zoning purposes.

The Chairperson opened the public hearing.

Zachary Ruttenberg spoke against the application due to parking concerns.

Drew Kartingainer spoke against the application due to parking concerns.

Margaret Ray spoke against the application due to parking concerns.

The Board unanimously agreed to hold the public hearing open.

The Board recommended alternate parking and feasibility analyses.

The Chairperson said her concern is building this large of a project right across the street from a school. She said it will create traffic challenges.

Mr. Kearney said he takes these comments into consideration. He said they have a certain critical mass to reach the 4% tax credit financial threshold. He said the parking study did address the pressure points during school hours.

The Assistant Corporation Counsel said the Department of Transportation has been noticed of the project and will also have the opportunity to review traffic flow impact and make recommendations.

Ms. Buxton asked the applicant to consider purchasing the City-owned neighboring vacant lot for use as additional on-site parking.

The applicant requested a table of its application until the next meeting.

**APPEAL NO. 2023-17**

**Applicant:** Matt Sorrell, PE/Sorrell Engineering, PLLC  
**Owner:** Munal Qayyem & Amjad Qayyem  
**Location:** 55 Liberty Street WH

Requesting an **AREA Variance** for 10.7 feet on the front yard setback, 10 feet on the South side yard setback, 7.7 feet on the North side yard setback, 21% on lot coverage and 6 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential Zone.

Matt Sorrell and Amjad Qayyem appeared before the Board.

Mr. Sorrell gave an overview of the proposed project.

Mr. Brandt asked why a variance request for six -off street parking spaces when the applicant is adding one additional apartment to the existing building.

The Assistant Corporation Counsel said that by changing the use of a two-family to a three- family dwelling, there is a requirement in the zoning code, and in the low-density residential zoning district, to require two off-street parking spaces per apartment unit.

Mr. Papaleo asked if the property is currently occupied.

Mr. Qayyem said he is currently the only resident of the property.

The Chairperson opened the public hearing.

Margaret Ray spoke against the application due to parking concerns.

James Ray spoke against the application due to parking concerns.

Julie Lindell moved to close the public hearing.

Michael Papaleo seconded the motion.

The motion passed unanimously via roll-call vote.

Julie Lindell moved to declare the action Type II for SEQRA.

Michael Papaleo seconded the motion.

The motion passed unanimously via roll-call vote.

Julie Lindell moved to approve the application as submitted.

Michael Papaleo seconded the motion.

The motion passed unanimously via roll-call vote.



**APPEAL NO. 2023-18**

**Applicant:** Matt Sorrell, PE/Sorrell Engineering, PLLC  
**Owner:** Dajma Group  
**Location:** 99 Henry Avenue

Requesting an **AREA Variance** for 95 square feet on lot area, 3 feet in the lot width, 10.7 feet on the front yard setback, 10 feet on the East side yard setback, 6.3 feet on the West side yard setback, 40% on lot coverage and 2 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential Zone.

Matt Sorrell and Amjad Qayyem appeared before the Board.

Mr. Sorrell gave an overview of the proposed project.

Mr. Brandt asked to confirm that the basement will be converted into a studio apartment.

Mr. Sorrell confirmed.

The Chairperson opened the public hearing.

No one was present for or against the project.

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

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

Julie Lindell moved to approve the application as submitted.  
Michael Papaleo seconded the motion.  
The motion passed 5-1 via roll-call vote.

**APPEAL NO. 2023-16**

**Applicant:** Cian Hamill and Mian Ye  
**Owner:** Cian Hamill and Mian Ye  
**Location:** 207 Liberty Street

Requesting an **AREA Variance** for 14.4 feet on the front yard setback which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Downtown Neighborhood Zone.

Ciam Hamill appeared before the Board and gave an overview of the proposed project.

The Assistant Corporation Counsel asked if there is any change to the building footprint.

Mr. Hamill said there are no proposed changes to the building footprint.

The Assistant Corporation Counsel asked to confirm that the proposed change is a conversion from a three-family to a four-family dwelling.

Mr. Hamill confirmed.

Mr. Papaleo asked for the building configuration.

Mr. Hamill said 1<sup>st</sup> and 2<sup>nd</sup> floor will remain one unit each. He said the proposal is to add two studio apartments on the 3<sup>rd</sup> floor.

The Chairperson opened the public hearing.

Carson Carter spoke in favor of the application.

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

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

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

### **APPROVAL OF MINUTES**

Julie Lindell moved to approve the April 2023 minutes as submitted.  
Michael Papaleo seconded the motion.  
The motion was approved unanimously via roll-call vote.

With no further business to discuss, the meeting was adjourned at 9:15 p.m.

Respectfully submitted,

J.K. Gentile  
Secretary to the Land Use Boards