

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 June 27, 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
Corey Allen (arrived 7:20 p.m./departed 8:38 p.m.)
Ben Brandt
Tiffany Buxton
Melvin Hales (alternate)
Julie Lindell

Absent: Dianne Dixon
Michael Papaleo

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

The Chairperson called the meeting to order at 7:14 p.m. after confirming a quorum.

OLD BUSINESS

APPEAL NO. 2022-04

Applicant: National Builders South, LP
Owner: Atkemix Thirty-Seven Inc.
Location: 700 South Street

Requesting an **AREA Variance** for 5 feet on the building height and 275 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Industrial Zone.

Charlie Bazydlo, Walter Kubow, and Brian Sekel appeared before the Board.

Mr. Bazydlo gave an update of the proposed project since their last presentation to the Board in March 2022. He said the applicant is withdrawing its application for a building height variance because they had to re-grade the site to conform with DEC requests. He said the proposal is to create 154 parking spaces on the site. He said there is available public transportation in proximity of the site. He said the Planning Board reached a negative declaration for SEQRA.

Mr. Hales asked about the potential noise from the truck traffic.

Mr. Bazydlo said it is proposed as a 24-hour operation, but the primary truck traffic will occur during the day. He said there is no plan for an acoustic barrier. He said the site is quite large, and the distance from the proposed building to where most residential neighbors are located is far. He said there is a large amount of natural vegetation that will remain on site and act as a barrier.

Ms. Lindell asked how many employees are proposed per shift.

Mr. Bazydlo said a tenant has not been secured yet. He said with a building this size one could estimate 50-60 employees per shift.

The Assistant Corporation Counsel said this project was reviewed by the DOT as South Street is a State road, and by the DEC as the site was a superfund cleanup site

Mr. Bazydlo said they had to submit an intensive parking and transportation study to DOT. He said based on the study, they had to move the driveway east, further away from any residential areas. He said DOT approved the conceptual traffic study. He said they are designing the wide, driveway apron to be pedestrian safe. He said they have added bicycle racks to the site.

Julie Lindell moved to approve the application as submitted.

Corey Allen seconded the motion.

The motion passed unanimously via roll-call vote.

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 updated parking study.

Mr. Brandt asked if there is available parking on both sides of South Street.

Ms. Alvarez confirmed.

Julie Lindell moved to approve the application as submitted.

Corey Allen seconded the motion.

The motion passed unanimously via roll-call vote.

NEW BUSINESS

APPEAL NO. 2022-29

Applicant: Colin Jarvis / The Newburgh Ministry, Inc.
Owner (17 Johnston): City of Newburgh
Owner (19 Johnston): The Newburgh Ministry, Inc.
Location: 17 & 19 Johnston Street

Requesting an **AREA Variance** on **Lot A** for 7.9 feet on the front yard setback, 5 feet on the South side yard setback, 15.7 feet on the rear yard setback, 2 stories/16.5 feet on the building height and 35% on lot coverage which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

Requesting an **AREA Variance** on **Lot B** for 7.6 feet on the front yard setback, 5 feet on the North side yard setback, 5 feet on the South side yard setback, 20 feet on the rear yard setback and 56% on lot coverage which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone

Colin Jarvis, Don Petruncola, Lee Lasberg and Frank Cerbini appeared before the Board.

Mr. Petruncola gave an overview of the proposed project.

Ms. Lindell asked to confirm the building will have 50 units of residential housing.

Mr. Petruncola confirmed.

Ms. Lindell asked if each unit would have a bathroom and kitchen.

Mr. Petruncola confirmed and said most of the units will be studio apartments. All of the apartments will also meet HCR standards. He said they proposed 50 units to make the project financially feasible.

Mr. Jarvis said the Newburgh Ministry has provided services for 40 years in the City of Newburgh. This proposal was submitted to the state to address the homeless issue. He said they are not proposing another homeless shelter, but instead permanent housing for single individuals with services on site.

Mr. Brandt said the front yard setback does not appear to align with the neighboring buildings.

Mr. Petruncola said Johnston Street is on an angle, so it may give the effect of non-alignment, but he assured that the building facades are in alignment.

The Assistant Corporation Counsel said the project has been before the Planning Board and Intent for Lead Agency have been mailed out. He said the staff recommendation is for the Planning Board to assume lead agency status for the project.

Mr. Brandt asked if the ARC approved the proposed building at five stories in height/massing.

Mr. Petruncola confirmed.

Ms. Lindell asked why there is not a parking variance request.

Mr. Petruncola said the Planning Board determines the parking based on the determination made in the Information Report of the Building Inspector.

The Chairperson opened the public hearing.

Drew Kartiganer spoke against the application.

George McNeil spoke against the application.

Susan Whitfield spoke against the application.

Alexis Glenn spoke against the application.

Lillie Tallie spoke against the application.

John Zelehoski spoke against the application.

Johanna Porr spoke against the application.

The Board held the public hearing open.

Mr. Hales asked if there is a proposed recreation or green space.

Mr. Petruncola said they proposed a common amenity space.

Mr. Brandt asked why this must be five stories and not three stories.

Mr. Petruncola said to accommodate 50 units and based on the amount of land available to build.

Mr. Lasberg said the state will not fund projects such as the one proposed for less than 50 units.

The Applicant requested a table of its application until next meeting.

APPEAL NO. 2023-22

Applicant: Jon Moss/Berg + Moss Architects

Owner: Colonial1932 LLC

Locations: 74 Lander Street

Requesting an **AREA Variance** for 2 feet on the lot width which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Downtown Neighborhood Zone.

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

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

Mr. Moss said there will be no change to the building footprint.

Mr. Moss said the variance request is to provide parking on site.

Mr. Brandt asked if it was originally constructed as a three-family dwelling.

Mr. Moss confirmed.

Ms. Lindell asked if there are three kitchens and three bathrooms already in the building.

Mr. Moss confirmed.

The Chairperson opened the public hearing.

No one was present for or against the project.

Corey Allen moved to close the public hearing.

Julie Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Corey Allen moved to declare the action Type II for SEQRA.

Julie Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

Corey Allen moved to approve the application as submitted.

Julie Lindell seconded the motion.

The motion passed unanimously via roll-call vote.

APPEAL NO. 2023-23

Applicant: Cynthia Dones
Owner: Cynthia Dones & Alberto Rodriguez
Location: 38 Valley Avenue

Requesting an **AREA Variance** for 1 foot on the North side setback and 5 feet on the East side setback which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential Zone.

Cynthia Dones and Alberto Rodriguez appeared before the Board.

Ms. Dones gave an overview of the proposed project.

The Chairperson opened the public hearing.

Ruth Rivera spoke in favor of the application.

Frederick Gardner spoke in favor of the application.

Corey Allen moved to close the public hearing.

Julie Lindell seconded the motion.
The motion passed unanimously via roll-call vote.

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

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

APPEAL NO. 2023-24

Applicant: Navia Mordan
Owner: Navia Mordan
Location: 32 City Terrace North

Requesting an **AREA Variance** for 7.8 foot on the North side setback and 9.2 feet on the East side setback which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential Zone.

Juan Galaviz appeared before the Board and gave an overview of the proposed project.

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

Mr. Galaviz said there will be no change to the building footprint.

Mr. Brandt asked how the building will be divided.

Mr. Galaviz said the new unit will be added in the basement.

The Chairperson opened the public hearing.

Lauren Capul spoke against the application.
Faith Kuprych spoke against the application.
Steve Kuprych spoke against the application.

Mr. Brandt asked if the setbacks include the on-site garage and was the garage an issue for the Planning Board.

The Assistant Corporation Counsel said there was no discussion of the garage or the location of the garage at the Planning Board. He said the focus of the Planning Board was the conversion of a one-family to a two-family.

(Mr. Allen departed the meeting.)

Ms. Buxton asked if the area variance request was due to the on-site garage.

The Assistant Corporation Counsel confirmed.
Julie Lindell moved to close the public hearing.
Ben Brandt seconded the motion.
The motion passed 4-1 via roll-call vote.

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

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

APPEAL NO. 2023-25

Applicant: Prince Holman/JQ Real Estate Ventures LLC
Owner: JQ Real Estate Ventures LLC
Location: 38 Lander Street

Requesting an **AREA Variance** for 25 feet on lot depth and 10 feet on the rear yard setback which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Downtown Neighborhood Zone.

Price Holman appeared before the Board and gave an overview of the proposed project.

The Assistant Corporation Counsel asked to confirm that the proposal is to expand the building footprint by 10 feet by building a 3-story addition in the back.

Mr. Holman confirmed.

The Assistant Corporation Counsel asked what the building is currently being used as.

Mr. Holman said a single-family.

The Assistant Corporation Counsel asked to confirm that the proposal is to convert this building from a single-family to a three-family building.

Mr. Holman confirmed.

Ms. Lindell asked about a parking variance request.

The Assistant Corporation Counsel said parking is not required in the Downtown Neighborhood Zone.

The Chairperson opened the public hearing.

Belius Barnabe spoke against the application.

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.
The Chairperson seconded the motion.
The motion passed unanimously via roll-call vote.

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

APPROVAL OF MINUTES

Julie Lindell moved to approve the May 2023 minutes as submitted.
Tiffany Buxton seconded the motion.
The motion was approved unanimously via roll-call vote.

With no further business to discuss, the meeting was adjourned at 8:50 p.m.

Respectfully submitted,

J.K. Gentile
Secretary to the Land Use Boards