

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 September 26, 2023 at 7:00 p.m. at the Activity Center, 401 Washington Street, Newburgh, New York.

Members Present: Joanne Lugo Chairperson
Ben Brandt
Dianne Dixon
Melvin Hales (alternate)

Absent: Corey Allen
Tiffany Buxton
Julie Lindell
Michael Papaleo

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

The Chairperson called the meeting to order at 7:08 p.m. after confirming a quorum.

NEW BUSINESS

APPEAL NO. 2023-41

Applicant: Eli Vaknin
Owner: Eli Vaknin and Wiktoria Staromiejska
Location: 145 North Miller Street

Requesting an **AREA Variance** for 9 feet on lot depth, 9.4 feet on the front yard setback and 5 feet on the north side setback which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Zone.

Eli Vaknin, Wiktoria Staromiejska and Jonathan Moss, R.A. appeared before the Board.

Mr. Vaknin gave an overview of the proposed project.

Mr. Moss said the front setback matches the existing historic front setback and the building will be reconstructed on the same footprint as the existing structure. He said this project has been approved by the Architectural Review Commission.

The Chairperson opened the public hearing.

No one was present for or against the application.

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

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

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

APPEAL NO. 2023-38

Applicant: Chris Berg, R.A. / Berg + Moss Architects, PC
Owner: Barbara Verrochi & Kristin Schaumleffel
Location: 282 Liberty Street

Requesting an **AREA Variance** for 10 feet on the front yard setback, 0.5 feet on the north side setback, and 1.6 feet on the south side setback and 2 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Zone.

Chris Berg, R.A. 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. Berg said no. He said there may be future alterations made to the dilapidated rear porch but that it would stay within the boundaries of the setback.

Ms. Dixon recommended to the applicant to identify the views and cross streets in future parking study submissions.

The Chairperson opened the public hearing.

No one was present for or against the application.

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

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

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

APPEAL NO. 2023-37

Applicant: Chris Berg, R.A. / Berg + Moss Architects, PC
Owner: Roberto B LLC
Location: 2 Bay View Terrace

Requesting an **AREA Variance** for 2 feet on the north front yard setback, 3-10 feet on the west side yard setback, 2-11 feet on the south side yard setback, 3% on lot coverage and 3 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Low-Density Residential Zone.

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

He said there are no proposed changes to the building footprint. He said there are three proposed on-site parking spaces and that the parking spaces would most likely only be utilized on weekends given the nature of the proposed business.

Ms. Dixon asked if the property will be owner-occupied.

Mr. Berg confirmed and said the owner is the caretaker apartment.

Ms. Dixon asked why a use variance is not required.

The Assistant Corporation Counsel said because the proposed use is allowed in the zone.

The Chairperson opened the public hearing.

No one was present for or against the application.

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

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

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

APPEAL NO. 2023-36

Applicant: Manmohan Gadh and Inna Sobel
Owner: Orange Property Development LLC
Location: 25 City Terrace

Requesting an **AREA Variance** for 10 feet on the front yard setback, 4.8 feet on the North side yard setback, 2.8 feet on the South side yard setback, 12.4% on lot coverage and 3 off-street parking spaces which do not meet the requirements of the Schedule of Use and Bulk Regulations in the Medium Density Residential Zone.

Jonathan Moss, R.A. appeared before the Board and gave an overview of the proposed project. He said this is an existing building and the requested yard setbacks are for the proposed rear addition.

Ms. Dixon asked if the addition would place the building closer to a neighboring rear building.

Mr. Moss said there is more than adequate space from the proposed rear addition and the adjoining side and rear properties.

The Chairperson opened the public hearing.

Ernest Graves requested clarification of the proposed project.

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

Mr. Brandt explained the project's intention addressing the public comment.

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

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

APPEAL NO. 2023-42

Applicant: Jonathan Moss, R.A. / Berg + Moss Architects, PC
Owner: Zeqir Hakanjin
Location: 405 Grand Street

Requesting an **AREA Variance** for 10 feet on the North side yard setback, 7.6 feet on the South side yard setback 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.

Jonathan Moss, R.A. appeared before the Board and gave an overview of the proposed project.

Ms. Dixon asked if they propose four on-site parking spaces.

Mr. Moss said that was the initial intention but that had changed.

Mr. Brandt asked why parking cannot be provided on-site.

Mr. Moss said parking was proposed in the rear with access through the alleyway. He said that proposal cannot be accommodated as it is unclear what entity is responsible for the maintenance of the alleyway.

The Assistant Corporation Counsel clarified that survey documents submitted by the applicant do not show that the alleyway belongs to the property owner. Regardless of ownership of the alleyway, it is the responsibility of the property owner to either provide sufficient off-street parking or seek a parking variance from the Zoning Board.

Mr. Brandt said this property was before the Zoning Board in 2020 and that the conditions presented have not changed since that denial ruling.

The Chairperson opened the public hearing.

Joseph Maraday spoke against the application.

Kippy Boyle spoke against the application.

Dianne Dixon moved to close the public hearing.

The Chairperson seconded the motion.

The motion passed unanimously via roll-call vote.

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

The Chairperson seconded the motion.

The motion passed unanimously via roll-call vote.

Ms. Dixon asked if the Building Inspector conducted a site visit and determined on-site parking is not available.

Mr. Moss said upon the Building Inspector's site review, the Building Inspector determined the site would require significant construction to regrade the lot area and rebuild the retaining wall to accommodate on-site parking.

Ms. Dixon asked if it is possible to accommodate off-street parking.

Mr. Moss confirmed.

Ms. Dixon requested proof of feasibility for off-street parking.

The Chairperson said she would like to review the December 2020 minutes before reaching a decision.

Mr. Moss said the parking study was conducted in the summer when Mount Saint Mary College was not in session. He said he will update the parking study to reflect parking availability during college attendance.

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

APPEAL NO. 2023-40

Applicant: Angelo Balbo
Owner: Angelo Balbo Management LLC
Location: 825 Broadway, 829 Broadway

Requesting a **USE Variance** for an Apartment House in the Low-Density Residential Zone with a Neighborhood Commercial Overlay.

Natalie Quinn, Project Manager for KARC Architects, appeared before the Board and gave an overview of the proposed project.

Ms. Quinn said that the 825 Broadway property is currently zoned as Low-Density Residential Zone with a Neighborhood Commercial Overlay. The 829 Broadway property is zoned as Commercial District with a Waterfront Protection Overlay. She said the Building Inspector denial letter cited City Code Section 300-24, that whenever there is a proposed merging of two parcels located in separate zoning districts, that the most restrictive standards would apply to the entire site.

Ms. Quinn said when they applicant began thinking about and planning for the project, the Zoning Code permitted an Apartment House in the Neighborhood Commercial Overlay zone. She said with the Zoning Code change in May 2023, Apartment House is no longer a permitted use in the Neighborhood Commercial Overlay zone. She said this new code change occurred mid-way in the project design which is what prompted the Use Variance request. She said the submitted plan for Zoning Board review has been updated to reflect city staff review at the August 1, 2023 Planning Board workshop. She said her team shifted the building to meet Waterfront Protection Overlay requirements. She said further site plan development paused until the use variance issue was resolved reviewed by the Zoning Board of Appeals.

Ms. Quinn said the property has been unable to realize a reasonable rate of return as currently zoned. She asked the Board to review the past three years of figures as presented in the submitted PowerPoint presentation.

Ms. Dixon asked why the figures for the year 2022 were not present for review.

Ms. Quinn said the figures were not available and that she will check on the availability of those figures for presentation.

Ms. Dixon asked if there is an expected income for review.

Ms. Quinn said she would look to obtain a Pro Forma for review.

Ms. Dixon requested the figures from 2016 to show the restaurant's history of profits and losses since its opening.

Ms. Quinn said the hardship claimed by the applicant is unique given the situation of initiating a proposal under one zoning code and the zoning code changing during the proposal development.

Ms. Dixon asked the applicant to confirm that the hardship claimed was the change of code.

Ms. Quinn confirmed. She said the project also met other unique hardships. She said the physical site conditions are undevelopable due to the natural Quassaick Creek boundary. She said the proposed project will not alter the physical character of the neighborhood and referenced the Power Point presentation as examples of other existing apartment houses within reasonable proximity of the project site.

Mr. Hales asked how many residential units are proposed.

Ms. Quinn said probably no more than seventy-five.

Mr. Hales asked if any of the proposed residential units will be considered for affordable housing.

Ms. Quinn said the owner is proposing market rate rentals.

Ms. Quinn said showed a slide of proposed contextual massing. She said the applicant proposes the building to come up to the street, creating a street wall for pedestrian appeal.

Ms. Quinn provided examples of architecture that would be used to further integrate the building into the existing neighborhood.

Ms. Dixon asked if the proposal was for construction of 141 units prior to the May 2023 Zoning Code change.

Ms. Quinn said no. She said that proposal was for a larger building before accounting for the setback requirements of the Waterfront Protection Overlay.

Ms. Dixon said she would like a projection of the actual, proposed unit count to assist in conceptualizing the size of the building and the impact that the building size would have on the character of the neighborhood.

Mr. Brandt said it is unclear how the proposed massing fits with the character of the neighborhood. He is in favor of the street wall concept. He recommended breaking up the massing. He said it is an interesting site to build a denser mixed-use building with parking.

The Chairperson opened the public hearing.

Van McGrogan spoke against the application.

Stephanie McGrogan spoke against the application.

Don Satterly spoke against the application.

The Board held the public hearing open.

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

APPROVAL OF MINUTES

Minutes of the August 2023 Zoning Board meeting not available for review.

With no further business to discuss, the meeting adjourned at 8:42 p.m.

Respectfully submitted,

J.K. Gentile

Secretary to the Land Use Boards