

**CITY OF NEWBURGH  
ARCHITECTURAL REVIEW COMMISSION**

**Mary Crabb, Chairperson**  
123 Grand Street, Newburgh, N.Y. 12550

**Nancy Evans, Secretary**  
(845) 569-7400 Fax 569-0096

**ARCHITECTURAL REVIEW COMMISSION meeting of November 14, 2006.**

The regular meeting of the City of Newburgh **Architectural Review Commission** was held on **Tuesday, November 14, 2006** at 7:30 p.m. in the Activity Center at 401 Washington Street, Newburgh, New York.

**Members Present:** Mary Crabb, Chairperson  
Peter King  
Barbara Lonczak  
Keith Neito  
Charles Passarotti  
Bridiganne Flynn

**Members Absent:** None

**Also present:** Michelle Kelson, Assistant Corporation Counsel

The meeting was called to order at 7:30 p.m. after a quorum was confirmed.

**OLD BUSINESS**

**AR 2006-39**                      **96 Broadway**  
For addition, alterations and repairs to doors, roof, windows, steps, clock, finials, columns, and decorative cornices. Paint colors to be beige and white.  
**Applicant: 96 Broadway LLC**

The applicant did not appear before the Board. This matter is tabled for applicant's appearance.

**AR 2006-58**                      **124 Renwick Street**  
To paint body of dwelling with BM Lafayette Green HC-135 and all trim with BM Philadelphia Cream HC-30.  
**Applicant: Ismail Mohomad Al-Guhem**

Mike Henderson and Ismail Al-Guhem appeared before the Board.

At the September 12<sup>th</sup> meeting they presented their application to the board. The board suggested that Mr. Al-Guhem paint the building in a color to match the brick instead of the colors the applicant submitted. It was suggested that the

applicant paint the first floor all the way around the dwelling to the first band with a color paint that will match the brick and then take a picture and return to the next available ARC meeting for the final approval of the color.

The applicant has done this and is now at the November meeting with pictures.

Once the board saw the pictures they felt it would be too much to paint the whole building that color.

Final approval was given to not paint the remainder of the dwelling in the brick color but to paint the 1<sup>st</sup> floor all the way around the dwelling in a brick red color, to paint the trim in Philadelphia Cream HC-30 and to paint the cornice with a combination of the red and cream colors.

A motion to approve the application was made by Ms Lonczak and seconded by Mr. King.

The motion was approved with a vote of 6-0.

**AR 2006-67**

**173 Broadway**

To paint the body of church with National Trust Historic colors – Oatlands Yellow and the trim with Lafonda Ortiz Gold.

**Applicant: Reverend Willie Mays**

Reverend Simpson appeared before the Board.

A motion to approve the application was made by Mr. Passarotti and seconded by Mr. King.

The motion was approved with a vote of 6-0.

**NEW BUSINESS**

**AR 2006-76**

**12 Catherine Street**

To take down old shingles and paint the wood underneath. Paint the body of the house Lancaster Whitewash (HC—174), the trim white, the stairs and decorative trim Phillipsburg Blue (HC-159).

**Applicant: Alice Turcios**

Alice Turcios and her sister Regina appeared before the Board.

They are taking down the old shingles because they are broken and falling down and paint the wood underneath. There are a few pieces that need to be replaced. Applicant went to Johnston Millwork and he can replace the pieces and they match exactly with what is there.

A motion to approve the application as submitted was made by Mr.

Passarotti and seconded by Mr. Neito.

The motion was passed with a vote of 6-0.

**AR 2006-77**

**253 Broadway**

Needs a recommendation to appear before the Zoning Board of Appeals for a change in Use.

**Applicant: Roderick Barnes**

Roderick Barnes appeared before the Board.

Mr. Barnes needs a recommendation to appear before the Zoning Board for a change in use from a bar to a hair salon.

The applicant was informed that he needs to come back to the ARC for approval of any changes he makes on the outside of the building (painting, any future signs he may want for the hair salon).

A motion to approve the application for a recommendation to appear before the Zoning Board for a change in use was made by Mr. King and seconded by Mr. Neito.

The motion was passed with a vote of 6-0.

**AR 2006-79**

**179 Renwick Street**

Needs a recommendation to appear before the Zoning Board of Appeals for a change in Use and Area.

**Applicant: Regional Economic Community Action Program, Inc**

Antonio Figueroa appeared before the Board.

Mr. Figueroa needs a recommendation to the Zoning Board for a change in use from a one family to a two family and an Area Variance for the bulk regulations that the current building does not match. Building has been vacant more than 6 months.

RECAP is under contract to purchase the property from the city.

Low income rentals for families who qualify. They will be (2) 3 bedroom apartments.

A motion to approve the application for a recommendation to appear before the Zoning Board for a change in use and area was made by Ms. Flynn and seconded by Mr. Passarotti.

The motion was passed with a vote of 6-0.

**AR 2006-80**

**181 Renwick Street**

Needs a recommendation to appear before the Zoning Board of Appeals for a change in Use and Area.

**Applicant: Regional Economic Community Action Program,**

Inc

Antonio Figueroa appeared before the Board.

Mr. Figueroa needs a recommendation to the Zoning Board for a change in use from a one family to a two family and an Area Variance for the bulk regulations that the current building does not match. Building has been vacant more than 6 months.

RECAP is under contract to purchase the property from the city.

Low income rentals for families who qualify. They will be (2) 3 bedroom apartments.

A motion to approve the application for a recommendation to appear before the Zoning Board for a change in use and area was made by Ms. Lonczak and seconded by Mr. King.

The motion was passed with a vote of 6-0.

#### **PUBLIC HEARINGS**

**AR 2004-121**

**273 Liberty Street**

To make an amendment to a previously approved application for renovation of the front porch. The new request is for the floor of the first level of the porch to be made of 5/4" x 3" Douglas fir tongue and groove and the support columns to be 10" wooden Doric columns.

**Applicant: Christopher Rawlison**

The Chairperson of the Board then opened the Public Hearing by reading the text of the notice.

Christopher Rawlison appeared before the board.

Mr. Rawlison received approval from the board in November, 2004 to reconstruct his front porch. Once the approval was given and material was starting to be purchased he discovered that the mahogany T&G wood flooring was too expensive so he is requesting to use Douglas fir as a replacement for the mahogany. His contractor is having trouble finding 12" columns that are load bearing so he is requesting replacing 12" columns with 10" Doric columns.

Ms. Kelson: Some of the design work is different. Whether the columns are consistent with code, I would have to defer to the Code Compliance Dept. It is not a determination that I or this Board can make. As long as everyone understands that that's the limitation of your approval this evening.

There were no people to speak for or against this application.

The public hearing was completed on November 14, 2006.

A motion to approve the application was made by Ms. Lonczak and seconded by Mr. Neito.

The motion was approved with a vote of 6-0.

**AR 2006-65**

**COLONIAL TERRACE - 6 Norton Street**

To install insulation and vinyl (cedar like) siding based upon financial hardship pursuant to section 300-27 B of the city code.

**Applicant: Maureen Mushlit**

The Chairperson of the Board then opened the Public Hearing by reading the text of the notice.

Maureen Mushlit, her attorney Jay Myrow and Bill Murphy appeared before the Board.

The Chairperson read aloud a letter dated 10-13-2006 from the applicant Ms. Mushlit.

Keith Neito read aloud a letter dated 10-30-2006 from Home Pro Inspections. Mr. Neito also read aloud a letter from Debra Scully.

Ms. Crabb asked Assistant Corporation Counsel to explain the hardship regulations.

Ms. Kelson: An applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible. That's the standard.

Ms. Flynn: It is my understanding that the hardship application applies to the property, the building, the land and not necessarily the financial position of the owner. Is that correct?

Ms. Kelson: In zoning terms I suppose that's accurate but I don't know if this is going to be reviewed in the same context as a Zoning application.

Mr. Myrow: It looks to me like the language suggests that a reasonable rate of return is going to presume that a person has means. Maybe not the greatest means, maybe not have the easiest of means but reasonable means to maintain their property and that you can't ignore the expense that might be incurred by a particular home owner but it certainly has ... at a reasonable rate so I don't think you can ignore the fact that a person is going to make expenditures, or had to make an expenditure but I don't think you can presume that may not be able to consider a low and a high but yet to assume that someone is going to make an expenditure here

and you do have to consider it in that light.

Mr. King: The issue is that the expense was made before the project came before the ARC and that in itself is really the crux of the matter.

Mr. Passarotti: Had the application come before us before the purchase of materials it would have been easier because there was no output at that time.

Mr. Myrow: If your going to look at it that way then your going to have to look at the reasons why that occurred. And that being the case it would range all the way from being a self created problem to being one where there is no fault on the part of this applicant. She wasn't trying to avoid her responsibilities, she went to an official who would know whether or not she needed to go. She was guided in such a manner and proceeded without having to come to this board for review.

Ms. Kelson: I understand that. The estoppel is not an available defense against a municipality. That is an argument I would make in a court of law if it came to that. What I suggest here is that we're aware of the facts, we're aware of the circumstances. My understanding of hardship is that it should be somewhat divorced from your initial review of the primary application and that it should focus on a more dollars and cents analysis. Otherwise there's no point in having a hardship process because you're just re-hashing the same application with the same set of standards.

Mr. Myrow: That \$15,000 plus what she has spent already, \$4,000, is a real number. You can't disregard the money spent. Your looking at a price for putting siding on the house that is in excess of the fair market value for this house.

Mr. Passarotti: That is irrelevant. The question here is had it come before us the vinyl siding would not have been approved and the cost of putting the cedar siding and painting would have been real and that would probably have been the approval.

Mr. Myrow: Your saying that if she had come here originally to put the vinyl on you would have turned her down she still could be back here asking for the hardship. So these numbers don't matter one way or the other. It's the fact that she didn't come here originally. She would be free to come here for a hardship for the same reason we're here now.

Ms. Kelson: That may be true but the hardship relief is not limited to somebody who got this information or who was given the wrong direction or who made a mistake. Hardship is available to any applicant whose certificate of appropriateness is denied at the outset.

Mr. Myrow: And I would submit that if this had gone through the appropriate channels and Maureen came here asking for a hardship based on a proposed \$16,000 expenditure you would obviously have to weight that and make a decision based on those numbers.

Mr. King: What is the square footage? We need numbers.

Two sides are visible from the street.

Ms. Mushlit purchased the home for \$45,000 in a market where the homes were going for \$100,000. Ms. Mushlit put \$52,000 into the home doing the work herself. The houses have appreciated.

Mr. Flynn: The Assessors market value is \$158,000. Recent home sales in the area as of September on the books the most modest ones sold for \$190,000. To make a profit if you were to sell it after spending \$117,000, you would have a reasonable rate of return on the property.

Ms. Kelson: I understand where Ms. Flynn is going with this and she's using an analysis that would clearly be applied in a Zoning application for a Use Variance as to whether the applicant can earn a reasonable rate of return for any permitted use. If this application is used the same criteria as would be in the Zoning venue than her analysis is correct. Whether that analysis would be upheld in an Article 78, I express no comment. Nobody in this room can declare her analysis absolutely wrong.

Time is of the essence.

Mr. King: Hardship has not been proven.

The other homes in Colonial Terrace that have vinyl siding are having a negative impact on the district.

Mr. Neito: I think the Commission needs to show some compassion. I'm not hearing any compassion what so ever. I can't imagine that this applicant came before us and went to the trouble of hiring a lawyer to get away with putting up siding on her home. I think we need to help this woman out.

Ms. Kelson: I think this case says nothing about future projects. I think this is the notice to everyone who lives there now and will purchase there in the future that you have had your warning. I'm not saying you should grant or deny anything. I'm saying that after having two public hearings and the debate that has gone on and the recitation of the facts that there could be no future excuse for not knowing what is required when you go to make an exterior alteration to a home in Colonial Terrace.

When the Chairperson asked if there was anyone present that would like to speak in favor of this appeal the following individual spoke:

Michael Gabor, 297 Grand Street, Newburgh, New York  
Terry Flynn, 19 Farrell Street, Newburgh, New York  
Steve Hunter, 123 Grand Street, Newburgh, New York  
Joseph Sandridge, Coppola Associates, Newburgh, New York  
Mr. Marko, Newburgh, New York

There were no people to speak against this application.

The public hearing was completed on November 14, 2006.

A motion to approve the application was made by Ms. Lonczak and seconded by Mr. Neito.

The motion was denied with a vote of 2-4.

**AR 2006-70**

**209 North Miller Street**

To repoint masonry as necessary; to repair the stairs and add wrought iron, or equivalent, hand rail to front step; to replace existing bathroom window with a new vinyl clad wood window; to repair front windows; to repair wood trim and cornice trim with material in kind and paint to match the existing colors.

**Applicant: Burton Development Inc, Mark Levin**

The Chairperson of the Board then opened the Public Hearing by reading the text of the notice.

Joseph Sandridge appeared before the Board.

Mr. Sandridge explained that this is a single family dwelling currently under renovation. Approval was given to re-point masonry as necessary, to repair the stairs in kind, to replace an existing bathroom window with a new vinyl clad wood window 2 over 2, to repair front windows to match existing, to repair wood trim and cornice with material in kind and paint to match the existing colors. Further approval was given to install a 6 panel wooden door, to add a wrought iron handrail to the front steps, to install a wrought iron gate across the alleyway to match the wrought iron handrail on front steps and to move the front door forward to be aligned with the front of the house

There were no people to speak for or against this application.

The public hearing was completed on November 14, 2006.

A motion to approve the application was made by Ms. Lonczak and seconded by Mr. Neito.

The motion was approved with a vote of 6-0.

**AR 2006-72**

**12 Courtney Avenue**

To remove and replace a two story enclosed porch. To install on 1<sup>st</sup> floor a 30" metal insulated door, two double hung windows, 24" x 36", white vinyl clad; to install on second floor two double hung windows, 24" x 36", vinyl clad; exterior wall to be 1/2" x 6" wood siding painted with existing approved trim color scheme. To install a wooden

picket fence stained gray along the front of property.  
Fence will be 4 feet high by 30 feet long.  
**Applicant: Mark Ridgeway**

The Chairperson of the Board then opened the Public Hearing by reading the text of the notice.

Mark Ridgeway appeared before the board.

Mr. Ridgeway explained that the new porch will be enclosed. There will be 2 windows along the long side of the building. He will use Architectural dark grey Timberline shingles and new gutters. He will install a 4 feet high 30 feet long wooden picket fence stained grey in the front yard to run the length of the front porch and around the corner. Install a 30" metal insulated door, 4 double hung white vinyl clad wood windows 24" x 36", exterior wall to be 1/2" x 6" wood siding painted Candle and Garden Topiary. The new roof shingles will match the existing shingles, the new gutters and leaders will match the existing and the rear porch and railing will be built to code and painted in the same colors.

There were no people to speak for or against this application.

The public hearing was completed on November 14, 2006.

A motion to approve the application was made by Mr. Passarotti and seconded by Mr. Neito.

The motion was approved with a vote of 6-0.

**AR 2006-73**

**103-117 Benkard Avenue**

To remove existing double hung window sashes and install vinyl replacement windows and to replace approximately 20 feet of exterior wood molding.

**Applicant: Thomas Campbell**

The Chairperson of the Board then opened the Public Hearing by reading the text of the notice.

Thomas Campbell appeared before the Board.

Mr. Campbell would like to change windows on the 1<sup>st</sup> and 2<sup>nd</sup> floor of his home. All the windows in the front and two windows on the side. The windows will be the same size as existing 32 x 62. He would also like to replace approximately 20 feet of exterior wood molding and paint it white.

The board members suggested vinyl clad wood windows.

Mr. Campbell agreed to change his application to vinyl clad wood

windows in the 2 over 2 configuration.

There were no people to speak for or against this application.

The public hearing was completed on November 14, 2006.

A motion to approve the application was made by Ms. Lonczak and seconded by Mr. Neito.

The motion was approved with a vote of 6-0.

**AR 2006-74**

**25 Farrington Street**

To paint the body of the house Ralph Lauren O'Connor (VM 54) and the trim white; for approval of previously installed pella double hung windows.

**Applicant: Franz Joseph 25 Moon Shine Trust, P. Bilotti as agent**

The Chairperson of the Board then opened the Public Hearing by reading the text of the notice.

Paul Bilotti appeared before the board.

It was determined that the new windows were installed before this applicant purchased the building so nothing could be done about them at this time. So the application was only for the paint color.

There were no people to speak for or against this application.

The public hearing was completed on November 14, 2006.

A motion to approve the application was made by Mr. Passarotti and seconded by Mr. Neito.

The motion was approved with a vote of 6-0.

**AR 2006-78**

**COLONIAL TERRACE - 12 Norton Street**

To build a natural stone retaining wall along the front of property. Wall will be approximately 3 feet long on the left side of front walk and 45 feet long on the right side of front walk. Also needs approval to cap two cement steps with bluestone; to install a stockade fence or stone wall between backyard and the neighbors; to cut down a cedar tree in the front yard; to install a wooden gate at the bottom of stairs leading to the backyard; to change the style of the arbor and current picket fence in backyard; to move shed closer to the property line and replace with a new shed 8 x 10 or smaller with windows.

**Applicant: Christy Patterson**

The Chairperson of the Board then opened the Public Hearing by reading

the text of the notice.

Adam Pollick appeared before the board.

Mr. Pollock presented seven projects to the board.

Project one - the retaining wall. Have been working on this wall since May 2006. They had a professional come in and design the wall. Received a stop work order and have not touched the wall since. They have not started any of the other projects.

There were no people to speak in favor of this application.

When the Chairperson asked if there was anyone present that would like to speak against this appeal the following individual spoke:

Brian Flannery, 5 Norton, Newburgh, New York

The public hearing was completed on November 14, 2006.

The Commission voted on each project individually as follows:

Project # 1 - to build a retaining wall along the front of property.  
A motion to approve the application was made by Ms. Lonczak and seconded by Mr. Passarotti.  
The motion was denied with a vote of 1-5.

Project # 2 - to cap the cement steps with blue stone.  
A motion to approve the application was made by Mr. King and seconded by Mr. Neito.  
The motion was approved with a vote of 6-0.

Project # 3 - to install a stockade fence like the one pictured in your application painted white.  
A motion to approve the application was made by Mr. Neito and seconded by Mr. King.  
The motion was approved with a vote of 4-2.

Project # 4 - to cut down the cedar tree in the front yard.  
A motion to approve the application was made by Ms. Flynn and seconded by Mr. Passarotti.  
The motion was approved with a vote of 6-0.

Project # 5 - to install a wooden gate at the bottom of the stairs leading to the backyard like the one pictured in your application painted white  
A motion to approve the application was made by Mr. Neito and seconded by Mr. Passarotti.  
The motion was approved with a vote of 6-0.

Project # 6 - to change the style of the arbor and current picket fence in the backyard to either of the options that you presented, all to be made of wood and the 4x4 posts will be capped in copper to match the copper

features on the house.

A motion to approve the application was made by Mr. Neito and seconded by Mr. Passarotti.

The motion was approved with a vote of 5-1.

Project #7 – to replace the shed and move it backward closer to the property line. The shed will be 8x10 or smaller and be painted white with windows.

A motion to approve the application was made by Mr. Neito and seconded by Mr. Passarotti.

The motion was approved with a vote of 6-0.

**AR 2006-81**

**90 Grand Street**

To co-locate a public utility wireless telecommunications facility on the rooftop of the building. The proposed facility will consist of six (6) panel antennas and related equipment cabinets mounted on the roof. Applicant also needs a recommendation to appear before the Zoning Board of Appeals for a change in Use.

**Applicant: Omnipoint Communications Inc.**

The Chairperson of the Board then opened the Public Hearing by reading the text of the notice.

Daniel Braff appeared before the board.

Mr. Braff provided two options for the board members to choose from. Option A consists of two panel antennas flush mounted and painted to match the existing rooftop penthouse and four panel antennas flush mounted to the parapet of the existing building. Option B consists of two panel antennas flush mounted and painted to match an existing rooftop penthouse and four panel antennas pipe-mast mounted above the parapet. The only difference between the two is that the four antennas in Option B are mounted to stand above the parapet and are not flush mounted.

- Nextel antennas are already on the same roof.
- Antennas need to be on outside for line of sight.
- The antennas for Option B will be painted white to match the sky.

Ms. Kelson: This is a multi use residential building and your adding commercial use. Although it's just consisting of antennas and some minor communication it's still a commercial use on a residential building.

The Commission selected Option A as their choice provided the antennas align with the existing architectural elements on the building where possible and the colors are to match the existing colors on the building. The proposed facility will consist of six (6) panel antennas and related equipment cabinets mounted on the roof.

There were no people to speak in favor of this application.

When the Chairperson asked if there was anyone present that would like to speak against this appeal the following individual spoke:

Michael Gabor, 297 Grand Street, Newburgh, New York

The public hearing was completed on November 14, 2006.

A motion to recommend to the Zoning Board of Appeals that the proposed change in use will not have a negative impact on the Historic District was made by Ms. Flynn and seconded by Mr. Passarotti.

The motion was approved with a vote of 6-0.

A motion to approve the application was made by Mr. Passarotti and seconded by Mr. Neito.

The motion was approved with a vote of 5-1.

Meeting adjourned at 10:30 p.m.

Respectfully submitted,

Nancy Evans

Secretary