



Zoning Board of Appeals
Department of Planning & Community Development
City Hall - Roosevelt Square
Mount Vernon, New York 10550-2060
(914) 699-7230 • FAX (914) 699-1435

Richard Thomas
Mayor

Irwin S. Davison, Esq.
Chair

March 28, 2019

Tom Abillama
1955 Central Park Avenue
Yonkers, New York 10710

Re: Calendar # 1726- Z 214 Gramatan Avenue (Section 165.54, Block 1102, Lot 3)

Mr. Abillama:

At the Zoning Board meeting held on Tuesday, September 19, 2018, the above application was approved by Board members present.

Enclosed, please find the approved and stamped plans, along with the copies for the **Amended** Findings of Fact Conclusions of the Zoning Board of Appeals ("ZBA").

Feel free to contact staff if you have any questions.

Cordially,

Courtney Smalls
Board Secretary

Enclosures

cc: Building Department
City Clerk

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Zoning Board of Appeals
Mount Vernon, New York 10550-2060

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AMENDED FINDINGS OF FACT
Zoning Board Calendar # **1726-Z**

224 Gramatan, LLC., seeks to construct a mixed use structure (commercial ground floor with residential above). This property is located at 214 Gramatan Avenue in the NB (Neighborhood Business) zoning district, Block 1102, Lot 3 on the Tax Assessment Map No. 165.54 of the City of Mount Vernon.

Background

1. 224 Gramatan, LLC (hereinafter referred to as “224 Gramatan, LLC” or the “Applicant”), is owner of Lot numbered 3 on Tax Assessment Map No. 165.54 of the City of Mount Vernon. Lot is located at 214 Gramatan Avenue, Block 1102.
2. The applicant seeks to construct a mixed-use structure in the NB (Neighborhood Business) Zoning District. In order to do so, a use variance and certain area variances for the mixed-use structure are required.
3. By letter dated December 13, 2018, applicant seeks an amendment to the Zoning Board Findings approved on September 19, 2017 and signed on January 9, 2018 to reflect approval of use and area variances to construct a mixed use building consisting of 53 residential units (not 36) above a commercial ground floor and 1.5 off-street parking spaces per dwelling unit (for a total of 80 on-site parking spaces for residential use).¹

Zoning Review

4. The property is located in the NB (Neighborhood Business) zoning district; wherein, the proposed use (mixed use) is not permitted in accordance with Section 267-17 and Section 267-18 of the City’s Zoning Code.
5. The property is located in the NB (Neighborhood Business) zoning district, which requires that:

¹ The Zoning Board’s Findings approved on 9/19/17 and signed on 1/9/18 were the subject of an Article 78 proceeding commenced by the Mount Vernon City Council. (See *Lisa A. Copeland et al., v. Zoning Board of Appeals for the City of Mount Vernon et al.*, Index No. 53034/2018, Westchester County Supreme Court.) A Court Ordered Stipulation Discontinuing the Action was duly filed with the Westchester County Clerk on 1/30/19.

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- Residential uses are not permitted;
 - 1 for a maximum floor area ratio;
 - 30' building height in feet;
 - 2 building height in stories;
 - 90% impervious coverage;
 - 60% building coverage;
 - 4,500 square feet lot area;
 - 50' for lot width and frontage;
 - Off-street parking spaces per dwelling unit: 2 (for a total of 106 parking spaces required) (*See Plan Examiner's Report dated July 27, 2016, last revised on March 16, 2017*);
 - Off-street parking spaces for retail: 1 per 200 square feet (for a total of 32 off-street parking spaces required) (*See Plan Examiner's Report dated July 27, 2016, last revised on March 16, 2017*); and
6. In the NB (Neighborhood Business) zoning district; the applicant proposes:
- To construct a mixed-use structure in a commercial zone;
 - To create a zoning envelope which allows a F.A.R. of 6.76;
 - To create a zoning envelope which allows 85' building height in feet;
 - To create a zoning envelope which allows 8 stories in building height;
 - To create a zoning envelope which allows a lot area per dwelling unit of 334.4 square feet;
 - To create 53 residential dwelling units;
 - To create a zoning envelope which allows a floor area of 1,050 square feet per dwelling unit;
 - To create a density of approximately 147 dwelling units per acre;
 - To create a zoning envelope which allows a building coverage of 100%;
 - To create a zoning envelope which allows an impervious coverage of 100%;
 - To provide 1.5 off-street parking spaces per dwelling unit (for a total of 80 on-site parking spaces for residential use);
 - To provide 32 off-street parking spaces in a municipal parking facility for retail use;
7. The requested variances above must be based on the use variance criteria pursuant to Mount Vernon City Code § 267.43 and Article 5A, Section 81-3 of New York State General City Law.
8. The requested variances above must be based on the area variances criteria pursuant to Mount Vernon City Code § 267.43 and Article 5A, Section 81-4 of New York State General City Law.

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The Application

9. 224 Gramatan, LLC, owner (hereinafter referred to as “224 Gramatan, LLC” or the “Applicant”) represented by their attorney Jack Adesso, Esq., filed this application on November 28, 2016. A copy of the application is attached hereto and made a part hereof.
10. The application for the requested variances was in proper form, consistent with the requirements found in § 267.44 of the Mount Vernon Zoning Ordinance.
11. Due notice of a Public Hearing to be held on December 20, 2016 was provided by a mailing to property owners within a 500’ radius of the subject site on December 12, 2016 and by publication in the Journal News newspaper on December 9, 2016 and December 10, 2016 and posting a sign on December 9, 2016.
12. Prior to the Public Hearing, the Board Members reviewed the full application package, which included the Plan Examiner’s Report, statement of principal points by the Applicant, photographs, environmental assessment form, site plan, survey, radius map, list of property owners within the prescribed radius and notice to property owners.
13. The Zoning Board of Appeals considered the subject application pursuant to the State Environmental Quality Review Act (SEQRA), classified the action as an “unlisted” action under **SEQRA**, and issued a “negative declaration” on September 19, 2017, ending the SEQRA process.
14. The Public Hearing was commenced on December 20, 2016; and continued on the agenda until the matter was concluded September 19, 2017 at 6:30p.m. in the Council Chambers, City Hall, Mount Vernon. A quorum was present consisting of the Chair and Members. Five (5) members of the Zoning Board were present. The Zoning Board secretary received written consents or written objections from the public. The Board read all of the correspondence from City agencies and Boards, which essentially included the following:
 - (a) **Architectural Review Board**: (April 26, 2017) provided the following:
 - That this proposed zoning envelope allows for enough flexibility in design for a project which fits in with the character of the surrounding area.

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- That the proposed zoning envelope may cast a shadow along Gramatan Avenue and the residential structures along North Street.
- That the ARB foresees potential environmental impacts that may require further environmental investigation.
- Guidance regarding Part II of the EAF.

(b) **Westchester County Planning Board**: (March 27, 2016)
provided the following comments and/or inquiries:

- The City should re-examine and update its zoning code.
- Supports parking reductions for transit-oriented development.
- Recycling.
- Sewage flows.
- Use of green technology.

(c) **Mount Vernon Planning Board**: (May 15, 2017) provided the following comments and/or inquiries:

- The Zoning Board should be the Lead Agency.
- That this area consists of mixed use development along Gramatan Avenue.
- Whether the sewer infrastructure can support such development.
- That a parking and traffic study is conducted.
- That proposed zoning envelope should allow for building height step backs as the building gets taller to prevent a shadow being cast upon the street.
- That the Planning Board foresees potential environmental impacts that may require further environmental investigation.
- Guidance regarding Part II of the EAF.

(d) **Mount Vernon Assessor Office**: (December 23, 2016)
provided the following comments and/or inquiries:

- The taxes have not been paid in the amount of \$32,630.06.

(e) **Public Safety**: (December 21, 2016)
provided the following comments and/or inquiries:

- No objection at this time.

(f) **Fire**: (January 6, 2017)
provided the following comments and/or inquiries:

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- No objection to the applicants as long as the New York State Fire and Building Codes and NFPA 13 are followed and all necessary permits are granted. Also a detailed drawing of all fire alarm and fire suppression systems must be submitted.

(g) **Water:** (April 28, 2017)

provided the following comments and/or inquiries:

- Demolition, if any, requires water turned off in the street and a backflow device to be installed.

The public was afforded the opportunity to speak in opposition or in favor of the application.

CONCLUSIONS OF LAW

The Zoning Board of Appeals has determined that the Applicant has met the criteria in the City Zoning Code of Mount Vernon § 267.43 to obtain the relief requested for area and use variances.

Use Variance

- a. Whether the owner cannot realize a reasonable return on the property as zoned: The Board found that a reasonable return could not be realized as provided through competent financial evidence.
- b. Whether the hardship is unique to owner's property and not applicable to a substantial part of the zoning district: The Board found that the hardship is not applicable the whole neighborhood.
- c. Whether the variance alters the essential character of the neighborhood: The Board found that the intensity of the proposed development does not alter the existing and permitted uses in the neighborhood.
- d. Whether the hardship is self-created: The Board found that the hardship is not self-created.

For the foregoing reasons, the Board determined that the use variance (multi-family structure) requested herein comply with Chapter 267 of the Mount Vernon City Code in its entirety.

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Area Variances

- a. How substantial is variance in relation to the requirements: The Board found that the variances sought were not substantial.
- b. Adverse effects or impacts on the neighborhood: The Board found that there would be no adverse affect on the neighborhood. The variances requested will further bring the site closer to conformity with the City's long range planning strategy.
- c. Substantial change in the character of the neighborhood: After careful review of the facts and circumstances surrounding the matter, the Board found that there would be no substantial change to the neighborhood because the neighborhood is currently multi-family residential. The proposed variances are in character with the other residential structures within the neighborhood.
- d. Ability to address the difficulty via other means: The applicant made a meritorious presentation through qualified expert and lay testimony that these variances were necessary for the accomplishment of the project. The Board assessed other possible solutions and configurations to get the proposal as closer to conformity with the City's Zoning Code, all of which required more than the minimum variance necessary.
- e. Whether the hardship is self-created: No because the shape of the land did not allow for this type of structure based on the existing zoning code.

For the foregoing reasons, the Board determined that certain area variances (Building Height In Feet, Building Height In Stories, Lot Area Per Dwelling Unit, Floor Area Per Dwelling Unit, Number of Dwelling Units, Density, Impervious Coverage, Building Coverage and Number of Off-Street Parking Space) requested herein comply with Chapter 267 of the Mount Vernon City Code in its entirety.

DETERMINATION

Following deliberations conducted on March 13, 2019, a motion to amend the Zoning Board Findings approved on September 19, 2017 and signed on January 9, 2018 to reflect approval of use and area variances to construct a mixed use building consisting of 53 residential units above a commercial ground floor and 1.5 off-street parking spaces per dwelling unit (for a total of 80 on-site parking spaces for residential use) was made by Board Member K. Scully, seconded by Board

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Member I. Abdul-Matin, and carried by the three (3) members of the Zoning Board of Appeals present.

Accordingly, it is therefore;

RESOLVED, that the Findings of Fact approved by this Board on September 19, 2017 and signed on January 9, 2018 are hereby amended as reflected herein and the application of 224 Gramatan, LLC, for USE (mixed use) and for certain AREA Variances (F.A.R., Building Height In Feet, Building Height In Stories, Lot Area Per Dwelling Unit, Floor Area Per Dwelling Unit, Number of Dwelling Units, Density, Impervious Coverage, Building Coverage and Number of Off-Street Parking Spaces) to construct a multifamily residential dwelling at the premises identified at 214 Gramatan Avenue, designated as Block 1102, Lot Numbered 3, on the Tax Assessment Map No. 165.54 of the City of Mount Vernon, New York, is hereby granted with the conditions listed therein.

1. That the applicant adheres to any and all rules and regulations of City Boards, Departments and Agencies, and the County if applicable, involved or affected by this application.
2. That the applicant provides a feasibility study as to whether sewer system improvements are necessary and make any improvements which are warranted.
3. That the applicant provides soil test as it relates to the potential brownfield of the site and remedy any soil which is found to be contaminated.
4. That, pursuant to Mount Vernon Zoning Code § 267.36(E)(c), the applicant shall provide a legal instrument, in form and filing, satisfactory to the Corporation Counsel, assuring the continued use of a municipal parking facility to provide off-street parking spaces in connection with the retail uses/structures served. Such instrument shall be submitted to the Zoning Board of Appeals, Planning Department, Law Department, and Buildings Department for the file prior to the issuance of a Certificate of Occupancy.
5. That, pursuant to Mount Vernon Zoning Code § 267.36(E)(2)(a)(1), the applicant shall pay a parking fee for each required space which is not provided on site, or on another lot as permitted by Subsection (E)(1)(a),(b),(c) of the Mount Vernon Zoning Code, in lieu of providing the minimum required off-street parking spaces. Proof of payment shall be submitted to the Zoning Board, Planning Department, and Buildings Department for the file prior to the issuance of a Certificate of Occupancy.

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6. That, pursuant to Mount Vernon Zoning Code § 267.43(D)(3), all of the above conditions shall be incorporated into the building permit and certificate of occupancy. Failure to comply with said conditions shall constitute a violation of Chapter 267 of the Mount Vernon City Code and may constitute the basis for denial or revocation of a building permit or certificate of occupancy and for all other applicable remedies.

Total Members: 5
Members Present: 3
Motion/Motion 2nd: Scully/Abdul-Matin
Ayes: 3 (A. Castillo, K. Scully, I. Abdul-Matin)
Nays: 0
Abstain: 0
Absent: 2 (I. Davison, E. Castillo)

Date Approved: March 13, 2019

Date Signed: 3/27, 2019

By: 
IRWIN S. DAVISON
CHAIR

Calendar Number: _____ -7
(Staff Use Only)



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Zoning Board Application
(Please type or print clearly)

Application Type:
(Check all that apply)

- Area Variance Use Variance Interpretation Amendment

(If amendment, provide previous calendar number): _____ -Z

Property Identification:

Address: 222 GRAMATAN AVE

Map page: 165.54 Block: 1102 Lot(s): 3

Zoning District: NB Existing Site area: 15,200 SF

Owner Information:

Name: 224 GRAMATAN, LLC

Address: 100 Rte 133, OSSINING, NY

Telephone #: (914) 572 2686

Fax #: _____

E-mail Address: SALALSALBH@YAHOO.COM

Applicant Information:

(Provide if someone other than the property owner is the applicant)

Name: SAL SALETT

Address: GAME

Telephone: _____

Fax #: _____

E-mail Address: _____

Legal Representative Information:

(Provide if someone other than the property owner is the applicant)

Name: JACK ADDRESSO, ESQ.

Company: _____

Address: 154 STEVENS AVE

Telephone #: (914) 699 6052

Fax #: _____

E-mail Address: JAAPLLC@HOTMAIL.COM

Lead Design Professional Information:

(Indicate the primary design professional associated with this application)

Name: TOM F. ABILLAMA, R.A., AIA

Title: ARCHITECT

(Check all that apply)

Architect Engineer Contractor Other (Specify): _____

Company: _____

Address: 1955 CENTRAL PARK AVE

Telephone #: (914) 668 4673

Fax #: (914) 668 1831

E-mail Address: TOM@TFARA.COM

Criteria for Application Referral:

- Is subject property within 500 feet of any other municipality? Yes No
- Is subject property within 500 feet of any park or parkway lands? Yes No
- Is subject property within 500 feet of any State or County roads? Yes No
- Is subject property within 500 feet of any County facilities? Yes No

Project Description:

(Describe the project in detail indicating all areas of work, type(s) of improvement and materials to be used as a part of the proposed improvements. Use additional sheets if necessary.)

ERECT EIGHT STORY STRUCTURE - MERCANTILE & BUSINESS
ON 1ST FL. LEVEL - STORAGE & UTILITIES IN REAR

2 LEVELS OF PARKING ON 2ND, 3RD FL. LEVELS

4 LEVELS OF RESIDENTIAL (40 UNITS)
ROOF TOP AMENITIES + PENTHOUSES (5) ON 8TH FL.

Zoning Code Information:

(Indicate sections of the Zoning Code for which variances/interpretation are requested)

USE VARIANCE: NB ZONE - RESIDENCES NOT PERMITTED
AREA VARIANCE FOR HEIGHT - (89' in lieu of 2)
LOT COVERAGE, PARKING, IMPERVIOUS SURFACES.

Proposed Site:
(Property where variances are requested)

Existing Use(s): MULTI-FAM. DWELLING (3 UNITS)

Proposed Use(s): MULTI FAM. DWELLING (36 UNITS)

Size of principal building: 100' x 152'

Size of accessory building: -

Number of storefront spaces: 5

Number of dwelling units on site: 53

Does the application consist of construction or the expansion of primary or accessory/appurtenant, non-residential structure(s) or facility(ies) involving less than 4,000 square feet of gross floor area?

Yes No

Parking Information:

Is off-street parking provided? Yes No If yes, indicate:

The number of spaces on the lot prior to project approval: 2
The number of spaces on the lot after project will be completed: 80

Is there a variance request for off-street parking? Yes No If yes, indicate:

The number of spaces: 26

With the completion of this application, I hereby state that the information provided and all accompanying documentation is accurate to the best of my knowledge, and that the attached plans contain all information required by the appropriate checklist.

Sal Saleh
Signature of Owner

11/20/16
Date

Tam Hattis
Signature of Applicant
(If different from owner)

11/20/16
Date