

**REGULAR MEETING  
ZONING BOARD OF APPEALS**

Nyack Village Hall  
Nyack, New York

September 28, 2015

Present: Catherine H. Friesen, Chair  
Robert Knoebel, Sr.  
John Dunnigan  
Ellyse Berg  
Roger Cohen (alternate)

**In Memoriam:**  
Raymond O'Connell

Absent: Mary Ann Armano

The following resolution was offered by Member Berg, seconded by Member Cohen, and carried based upon a review of the evidence presented at the public hearings held on September 28, 2015.

**BOARD OF APPEALS  
VILLAGE OF NYACK, COUNTY OF ROCKLAND**  
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In the Matter of the application of Jeff Castaldo  
(82-84 South Franklin Street) for an area variance from  
Article IV, VON § 360-4.11E(1) to permit a parallel  
Sign on the north façade of the building not facing a  
Street.

-----X

The Zoning Board of Appeals held a public meeting on the 28<sup>th</sup> Day of September, 2015, and due deliberations having been made that day.

Now, upon said hearing and upon the evidence adduced thereat, it is hereby found and determined that:

**FINDINGS OF FACT & CONCLUSIONS OF LAW**

**FIRST:** Applicant, Jeff Castaldo for Nyack Fitness, petitions the Zoning Board of Appeals for the variance noted above.

**SECOND:** The ZBA, in reaching its Findings of Fact and Conclusions of Law, has taken the following factual testimony and evidence under consideration:

1. The application and supporting documents submitted;
2. Testimony of Jeff Castaldo, representing the Applicant;
3. ZBA members knowledge of the site in question and site visits by all members of the ZBA;
4. Letter from the County of Rockland Department of Planning to the Zoning Board of Appeals dated July 23, 2015;
5. Positive recommendation from the ARB dated June 17, 2015
6. There was no testimony from any member of the public.

**THIRD:** The site in question is located in the DMU zoning district, and is owned by Jeff Castaldo who operates Nyack Fitness on the premises.

**FOURTH:** The Applicant seeks to construct a 1' by 8' parallel sign advertising his business on the north façade of the building which does not face a street. The proposed face of the building is highly visible to traffic and pedestrians heading south along Franklin Street. The sign will not be illuminated from within.

**FIFTH:** The ARB approved the application and issued a positive recommendation with respect to the grant of the necessary variance at its meeting on June 17, 2015.

**SIXTH:** The County of Rockland Department of Planning had no objection to the proposed sign, finding that it would have no impact on South Nyack and remanding the matter for local determination.

The above Findings were moved and passed. (5-0)

#### **CONCLUSIONS OF LAW:**

The Zoning Board considered the factors set forth in Section 7-712-b(3)(b) of the Village Law of the State of New York as follows:

**(1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.**

**FIRST:** That the proposed variance does not create an undesirable change in the character of the neighborhood or a detriment to nearby properties. This conclusion was reached based upon deliberations of the Zoning Board at the public hearing, and based upon the factual findings set forth above in paragraph 4. (5-0).

**SECOND:** That the Applicant has demonstrated that there are no other means by which it could achieve its purpose without the requested variance. This conclusion was reached based upon deliberations of the Zoning Board at the public hearing, and based upon the factual findings set forth above in paragraphs 3 and 4. (5-0)

**THIRD:** That the variance is not substantial in light of the current conditions on the site. This conclusion was reached based upon deliberations of the Zoning Board at the public hearing, and based upon the factual findings set forth above in paragraph 4. (5-0)

**FOURTH:** That the proposed variance will not not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This conclusion was reached based upon deliberations of the Zoning Board at the public hearing, and based upon the factual findings set forth above in paragraphs 4, 5 & 6. (5-0)

**FIFTH:** That the hardship is self-created. This conclusion was reached based upon deliberations of the Zoning Board at the public hearing, and based upon the factual findings set forth above in paragraphs 3 and 4. (5-0)

The Board has weighed the findings of fact and the conclusions of law against one another as required under Section 7-712-b of the Village Law of the State of New York and finds in the interest of justice that the variances applied for should be GRANTED with the following condition:

1. The directives of the Architectural Review Board are followed.

On a roll call, the vote was as follows:

Ayes: 5 (Friesen, Knoebel, Dunnigan, Berg, Cohen)

Nays: 0

Abstain: 0

Catherine Friesen  
CATHERINE H. FRIESEN, Chair  
Zoning Board of Appeals, Nyack