

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

October 28, 2013

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

In Memoriam:
Raymond O'Connell

Absent: None

The following resolution was offered by Member Dunnigan, seconded by Member Berg, and carried based upon a review of the evidence presented at the public hearing held on October 28, 2013.

**BOARD OF APPEALS
VILLAGE OF NYACK, COUNTY OF ROCKLAND**

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In the Matter of the application of Chris Jones on behalf of Chip Smith (69 Lydecker Street) for an Area Variance from VON Code Section 360-4.11E(c)(1) which limits street-oriented signs to fascia bands above store windows .

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The Zoning Board of Appeals held a public meeting on the 28th Day of October, 2013, 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 Chris Jones petition the Zoning Board for area variances as set forth above. The Applicant has the permission of the property owner to make this application.

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 Chris Jones, Applicant, and Robert Hamburg;
3. ZBA members' knowledge of the site in question;
4. Site visits by all members of the ZBA;
5. E-Mail from Eileen Kuntsler-Collins, ARB Chair, dated October 28, 2013, summarizing status of the application;
6. Building Inspector's Plan Review Summary dated October 28, 2013;
7. There was no testimony from any member of the public.

THIRD: The site in question is located in the DMU zoning district.

FOURTH: The Applicant proposes to replace existing signs that are over 20 years old with new signs that have updated designs, text, typefaces and finishes. According to the Applicant, the new signs will be more aesthetically pleasing than the existing signs and will enhance both the building and the neighborhood. The Applicant does not propose to add any new signage.

FIFTH: The ARB approved the signage and offered a positive recommendation to the ZBA on October 23, 2013, with the exception that the Main Street/Broadway sign was to be revised and submitted for review by two ARB members.

These Findings of Fact were moved and passed. (5-0)

CONCLUSIONS OF LAW:

On oral motion, the Zoning Board voted to consider the variances in an omnibus fashion.

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 variances do 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 paragraphs 4 and 5. (5-0).

SECOND: That the Applicant has demonstrated that there are no other means by which he could achieve his purpose without the requested variances. 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)

THIRD: That the variances are 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 and 5. (5-0)

FOURTH: That the proposed variances will 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 and 5. (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 conditions:

1. The directives of the Architectural Review Board are followed;
2. Proof of mailing will be submitted to the Building Department by close of business Friday, November 1, 2013;
3. The existing lightbox be removed from Broadway and Main.

On a roll call, the vote was as follows:

Ayes: 5 (Friesen, Armano, Knoebel, Dunnigan, Berg)
Nays: 0
Abstain: 0

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