

**REGULAR MEETING  
ZONING BOARD OF APPEALS**

Nyack Village Hall  
Nyack, New York

November 25, 2013

Present: Catherine H. Friesen, Chair  
Robert Knoebel, Sr.  
Mary Ann Armano  
John Dunnigan  
Ellyse Berg

**In Memoriam:**  
Raymond O'Connell

Absent: Roger Cohen (alternate)

The following resolution was offered by Member Knoebel, seconded by Member Berg, and carried based upon a review of the evidence presented at the public hearing held on November 25, 2013.

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

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In the Matter of the application of Danny Porco (53 Route 59) for an Area Variance from VON Code Section 360-4.11E(2)(a) to install a sign that is 26.68 square feet where 20 square feet is permitted

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The Zoning Board of Appeals held a public meeting on the 25<sup>th</sup> Day of November, 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 Danny Porco petition the Zoning Board for an area variance as set forth above. The Applicant is the principal of the property owner, NY Dealer Stations LLC.

**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 Ira Emmanuel, Esq. on behalf of the Applicant;
3. ZBA members' knowledge of the site in question;
4. Site visits by all members of the ZBA;
5. Planning Board minutes dated October 7, 2013;
6. Building Inspector's Plan Review Summary dated November 25, 2013;
7. There was no testimony from any member of the public.

**THIRD:** The site in question is located in the CC zoning district. The subject property is the Shell Station at the corner of Route 59 and Waldron Avenue. The Applicant acquired the property approximately 3½ years ago pursuant to the local zoning regulations.

**FOURTH:** The Applicant proposes to replace an existing non-conforming price and identification sign with a new, smaller sign. The proposed sign is still larger than permitted by Code, but is smaller than the existing sign.

**FIFTH:** The ARB approved the signage and offered a positive recommendation to the ZBA on November 20, 2013. The Planning Board also made a positive recommendation to the ZBA to grant a variance for signage on October 7, 2013.

These Findings of Fact 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 paragraphs 3, 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 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 paragraph 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 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 and Planning Board are followed;
2. Proof of mailing must be submitted to the Building Department by Monday, December 7, 2013.

On a roll call, the vote was as follows:

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

Nays: 0

Abstain: 0

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