

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

April 1, 2013

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

In Memoriam:
Raymond O'Connell

Absent: Roger Cohen (alternate)

The following resolution was offered by Member Armano, seconded by Member Berg, and carried based upon a review of the evidence presented at the public hearing held on April 1, 2013.

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

-----X
In the Matter of the Application of Katie Whitney and
Franklin Thomas (143 North Broadway)
for an area variance from VON Code Section 360-4.3,
(Dimensional Standards) Table 4-1 for pre-existing
front yards of 8.36 feet and 14 feet where 27.3 feet are required
-----X

The Zoning Board of Appeals held a public meeting on the 1st Day of April, 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 Katie Whitney and Franklin Thomas petition the Zoning Board for an area variance as set forth 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, including a letter from Kier Levesque, Architect, to the ZBA dated March 15, 2013;
2. Testimony of Kier Levesque, Architect, on behalf of the applicants;
3. ZBA members knowledge of the site in question;
4. Site visits by all members of the ZBA;
5. Minutes of the Planning Board dated March 4, 2013, and draft notes of the Architectural Review Board meeting held on February 20, 2013;
6. Building Inspector's Plan Review Summary dated April 1, 2013; and
7. There was no testimony from any member of the public.

THIRD: The site in question is located in the TFR zoning district on the corner of North Broadway and Ackerman Lane. The Applicants purchased the property in 2012 pursuant to the local zoning regulations.

FOURTH: The Applicants propose to convert the existing building, which has been used most recently by the Red Cross, back into a single family residence, and to install a front porch on the west side of the building facing North Broadway. The building is currently non-conforming with respect to both front yard setbacks (8.36 feet and 14 feet where 27.3 feet are required). The proposed installation of the porch does not alter the size of either front yard setback.

FIFTH: The Nyack Planning Board has issued a positive recommendation to this Board in relation to the variance request on the ground that the requested changes will allow the home to be restored to its original 1800s details with a front porch and a utilitarian rear entry, that it will not have any adverse impact on the neighboring properties, and that the owner is not making any significant changes to the location, size or shape of the building, but rather is merely proposing to add a porch that had previously been removed. The ARB also issued a positive recommendation with respect to the grant of the variance.

SIXTH: This area variance is exempt from review under SEQRA as it involves a one or two family home.

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 of the Village Law of the State of New York as follows:

FIRST: That the proposed variance does not create an undesirable change in the neighborhood. (5-0)

SECOND: That no detriment to nearby properties will result from granting the variance. (5-0).

THIRD: That the Applicants have demonstrated that there are no other means by which they could achieve their purpose without the requested variance. (5-0)

FOURTH: That the variance is not substantial in light of the current conditions on the site. (5-0)

FIFTH: That, on balance, the hardship is not self-created. (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 variance applied for should be granted with the following condition:

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

On a roll call, the vote was as follows:

Ayes: 5

Nays: 0

Abstain: 0

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