

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

September 29, 2014

Present: Catherine Friesen, Chair
John Dunnigan
Ellyse Berg

In Memoriam:
Raymond O'Connell

Absent: Robert Knoebel, Sr.
Mary Ann Armano
Roger Cohen (alternate)

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 September 29, 2014.

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

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In the Matter of the application of Sugby, Inc. (28 Bridge Street) for an area variance from Article I VON Code 360-1.9E for the alteration or enlargement of a Building that is nonconforming with respect to the following dimensional and developmental standards: an existing 4.4 foot south side yard where 5 feet is required, existing property size of 3104.8 square feet where 10,000 square feet is required, a lot width of 40 feet where 75 feet is required, a rear yard of 21.1 feet where 23.3 feet is required, and a minimum lot depth of 77.6 feet where 100 feet is required

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The Zoning Board of Appeals held a public meeting on the 29th Day of September, 2014, 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: The Applicants petition the Zoning Board for area variances 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;
2. Testimony of Kim Sippel, Architect, on behalf of the Applicant;
3. ZBA members' knowledge of the site in question;
4. Site visits by all members of the ZBA;
5. Building Inspector's Plan Review Summary dated September 29, 2014,
6. Minutes of the Planning Board dated September 8, 2014
7. Testimony from Terry Grenier (19, 24, and 25 Bridge Street) in support of the application.

THIRD: The site in question is located in the TFR zoning district. Applicant, Sugby, Inc., the owner of the property, acquired it approximately 30 years ago pursuant to the local zoning regulations.

FOURTH: The Applicant proposes to legalize the existing two family use of the property. Although officially classified as one family dwelling, it has been both taxed and used as a two-family for approximately twenty years, and its non-conforming status was not discovered until a former principal of Sugby, Inc., Lenny Sullivan, passed away. According to Village Planner Bob Galvin, who commented on the application for the Planning Board, the adjoining properties, which are similarly sized, also have two family units. Mr. Galvin agreed with the applicant's architect that the use of the subject property is compatible with the character of the street, and recommended that the Planning Board provide a positive recommendation to the ZBA, citing: the type of area variance requested; the pre-existing nature of the required variances; the property's conformity to the surrounding character of the street and neighborhood; the past history of the use of the subject property; two family uses are allowed in the TFR zone; and a continuation of property improvement along Bridge Street.

FIFTH: The application does not require a parking variance, and the Applicant will make all necessary improvements to bring the dwelling up to Code. The Applicant further testified that the property is only commercially viable as a two family unit, given its location and the proximity of commercial space.

SIXTH: The Nyack Planning Board issued a positive recommendation to this Board in relation to the variance request, finding that there would be no foreseeable impact on the neighbors and that the plan was logical and fit with the adjoining properties.

SEVENTH: The Planning Board found the area variance is exempt from review under SEQRA as a type II action.

These Findings of Fact were moved and passed. (3-0)

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 4, 5 and 6. (3-0).

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 paragraph 4 and 5. (3-0)

THIRD: That the variance is 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. (3-0)

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, 5 and 6. (3-0)

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. (3-0)

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 are followed;

On a roll call, the vote was as follows:

Ayes: 3 (Friesen, Dunnigan, Berg)

Nays: 0

Abstain: 0

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