

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

September 30, 2013

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

In Memoriam:
Raymond O'Connell

Absent: John Dunnigan
Ellyse Berg

The following resolution was offered by Member Armano, seconded by Member Knoebel, and carried based upon a review of the evidence presented at the public hearing held on September 30, 2013.

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

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In the Matter of the Application of Elzee Realty Corp.
(282 High Avenue) for area variances
from VON Code Section 360-4.3, (Dimensional Standards)
Table 4-1 for a pre-existing minimum lot area of
3763 ft² where 7500 ft² are required; pre-existing minimum
side yard of 1 foot where 5 feet are required, and
pre-existing minimum side yard setback of 16.1 feet
(both sides) where 20 feet is required
-----X

The Zoning Board of Appeals held a public meeting on the 30th Day of September, 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 Elzee Realty Corp. petitions 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 Elliot Zisman, member of Elzee Realty Corp., and Sidney Mayerfeld, 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. Minutes of the Planning Board dated September 9, 2013, and the Architectural Review Board dated July 17, 2013, and an e-mail containing notes of the ARB meeting dated September 16, 2013;
6. Building Inspector's Plan Review Summary dated September 30, 2013;
7. There was no testimony from any member of the public.

THIRD: The site in question is located in the RMU zoning district. The Applicant acquired the property in 2012 pursuant to the local zoning regulations.

FOURTH: The Applicant proposes to enlarge the square footage of the second floor of the existing two story building by bumping out the front of the second floor only by 2 feet 6 inches. The proposed addition is within the footprint of the existing dwelling which, because of the time of its original construction, is non-conforming with respect to minimum lot area, minimum side yard setback and minimum side yard. The proposed construction will not change or increase these non-conformities.

FIFTH: The Nyack Planning Board issued a positive recommendation to this Board in relation to the variance requests. The ARB also issued a positive recommendation after the applicant made certain design changes requested by the Board, which included significantly reducing the size of the proposed enlargement. Both the Planning Board and the ARB approved the application.

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. (4-0)

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. (4-0).

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. (4-0)

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. (4-0)

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. (4-0)

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 variance applied for should be GRANTED with the following conditions:

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

On a roll call, the vote was as follows:

Ayes: 4 (Friesen, Knoebel, Armano, Cohen)

Nays: 0

Abstain: 0

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