

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

July 29, 2013

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

In Memoriam:
Raymond O'Connell

Absent: Mary Ann Armano

The following resolution was offered by Member Cohen, seconded by Member Berg, and carried based upon a review of the evidence presented at the public hearing held on July 29, 2013.

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

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In the Matter of the application of Helen Liao
(89 North Highland Ave.) for a special permit in accord with
VON Code Section 360-5.9, Table 3.1 (Table of
Permitted Uses) for a conversion of a single or two
Family dwelling to a three family dwelling

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The Zoning Board of Appeals held a public meeting on the 29th Day of July, 2013 and due deliberations having been made on 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, Helen Liao, petitions the Zoning Board of Appeals for the special permit noted 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 Robert Silarski, Architect, on behalf of the Applicant;
3. ZBA members knowledge of the site in question, including site visits by all members of the ZBA;
4. The complete file for 89 North Highland Avenue maintained by the Building Department;
5. Building Inspector's Plan Review Summary dated July 29, 2013;
6. There was no testimony from members of the public.

THIRD: The site in question is located in the RMU zoning district on a busy stretch of Route 9W, and is one of two residential lots sandwiched between commercial uses. The Applicant purchased the property in June 2013 pursuant to the local zoning regulations. The Applicant proposes to renovate three existing apartments, each of which exceeds 600 square feet, to bring them into compliance with the habitability requirements of the 2010 NYS Residential Code. Those renovations include adding egress windows to bedrooms on all three levels, adding railings to existing stairs, and adding recessed light fixtures to the living room and kitchen on the basement level apartment.

FOURTH: In 1952, the property in question was originally registered as a two family house. On November 16, 1976, the former owners of the property, Edouardo and Renee Simon, received a special permit from the Village of Nyack Zoning Board of Appeals to convert the existing two-family dwelling to a three-family dwelling. It was a condition of the special permit that the use would run with the present ownership and did not attach to the property itself. The Building Department issued a certificate of occupancy for a three family use on February 28, 1977, and, in more recent years, has issued certificates of compliance for a dwelling with three units under the Multiple Residency Law. The current certificate of compliance expires in March 2014. Given the testimony of Mr. Silarski and the Building Inspector, as well as the certificates of compliance, it appears that the property has been substantially in compliance with the special permit for three dwelling units for 36 years.

FIFTH: The Board has considered the environmental impact of the special permit and in light of the fact that it has been operating as a compliant three family dwelling for 36 years, the Board determines that there would be no adverse environmental impact associated with reinstating the three family special permit use.

SIXTH: No use-specific standards apply to the application.

The above Findings were moved and passed. (5-0)

CONCLUSIONS OF LAW:

As to the application for Special Permit, the Zoning Board of Appeals has considered the factors set forth in VON Code 360-5.9C and makes the following Conclusions of Law:

FIRST: That the applicant has shown that all proposed structures, equipment and material will be readily accessible for fire and police protection.

SECOND: That the applicant has shown that the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.

THIRD: The applicant has shown that the location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to or incongruous with said district or conflict with the normal traffic of the neighborhood.

FOURTH: The applicant has shown that the location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

FIFTH: No use-specific standards are relevant to the application.

The Board has weighed the findings of fact and the conclusions of law as required under VON Code Section VON Code 360-5.9C *et. seq.* and finds in the interest of justice that the Special Permit should be GRANTED with the following conditions:

1. That all applicable regulations and laws as determined by the Building Inspector shall be complied with prior to December 31, 2013;
2. The Special Permit is not transferable. The use will run with the present ownership and does not attach to the property itself.
3. This special permit shall be renewed annually which renewal shall be effective upon the Building Inspector certifying that the building is in compliance with all applicable rules and regulations.

On a roll call, the vote was as follows:

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

Nays: 0

Abstain: 0

Catherine H. Friesen

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