

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

October 26, 2015

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

In Memoriam:
Raymond O'Connell

Absent: None

The following resolution was offered by Member Berg, seconded by Member Armano, and carried based upon a review of the evidence presented at the public hearings held on October 26, 2015.

**BOARD OF APPEALS
VILLAGE OF NYACK, COUNTY OF ROCKLAND**
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In the Matter of the application of Oak Hill Cemetery
(140 North Highland Avenue) for an area variance from:
VON Code § 360-4.11D(1)(2) & 3 (3) to permit a freestanding
Sign where freestanding signs are not permitted in the TFR zoning
district

-----X

The Zoning Board of Appeals held a public meeting on the 26th of October, 2015, 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, Oak Hill Cemetery, petitions the Zoning Board of Appeals for the variance 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 Louis DeLuise, Superintendent of Oak Hill Cemetery, representing the Applicant;
3. ZBA members knowledge of the site in question and site visits by all members of the ZBA;
4. Positive recommendation from the ARB dated July 15, 2015;
5. Letter from the County of Rockland Department of Planning to the ZBA dated August 13, 2015;
6. Plan Review Summary dated October 26, 2015;
7. There was no testimony from any member of the public.

THIRD: The site in question is located in the TFR zoning district, and is owned by the Applicant.

FOURTH: The Applicant seeks to install a 60” wide and 48” high freestanding identification sign that will inform visitors of cemetery visiting hours and mark the cemetery’s entrance more clearly. The sign is proposed to be located to the left of the entrance road at Route 9W, approximately 98 feet north of the intersection of Route 9W and Sickles Avenue.

FIFTH: The ARB approved the application and issued a positive recommendation with respect to the grant of the necessary variance at its meeting on July 15, 2015. The ARB imposed certain conditions to which the applicant agreed.

SIXTH: The County of Rockland Department of Planning expressed concerns with the proposed location of the sign, indicating that the location of the sign should be provided on the map in order to ensure that the sign location does not impede sight lines for US Route 9W and that the sign is appropriately set back out of the State right-of-way. The location of the proposed sign is now marked on a map reviewed by the ZBA, the Applicant has confirmed that the location is correctly indicated on the map, and, given the sign’s proposed size and location (which replaces a large, existing shrub), the ZBA finds that it will not impact sight lines.

The above Findings 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 4, 5 & 6. (5-0).

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 paragraphs 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 3 and 4. (5-0)

FOURTH: That the proposed variance will not 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 & 6. (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 condition:

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

On a roll call, the vote was as follows:

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

Nays: 0

Abstain: 0

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