

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

26 January 2009

Present: Steven P. Knowlton, Chair
Mary Ann Armano (absent)
John Dunnigan
Robert Knoebel, Sr.
Ellyse Berg

In Memoriam
Raymond O'Connell

The following resolution was offered by Member Knoebel, seconded by Member Dunnigan, and carried based upon a review of the evidence presented at the public hearing held on 26 January 2009.

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

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In the Matter of the application of Leslie Lovell (23 Summit) for Area Variances from VON Code 59-20A(1)(b) to permit a rear yard setback of 3 feet where 5 feet is required; and from 59-20A(1)(d) to permit accessory building lot coverage of 11% where 7% is the maximum.

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The Zoning Board of Appeals held a public meeting on the 26th day of January 2009 and due deliberations having been made this 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 petitions the Zoning Board for the variances 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 Kier Levesque, Architect;
3. ZBA members knowledge of the site in question;
4. Site visits by all members of the ZBA
5. There was no public testimony

THIRD: The site in question is located in the R-1 zoning district. According to the architect, the Applicant purchased the property at least three years ago pursuant to the local zoning regulations.

FOURTH: The Nyack Planning Board has issued a positive recommendation to this Board in relation to the variance requests.

FIFTH: The applicant wishes to construct a garage with an attached small shed on the property. As this is a corner lot, the property has two front yards. This lot is also undersized (3024.65 sq. ft. where 4000 is required).

SIXTH: Nearby lots have similar garages and sheds, and the plans as submitted call for a building of similar size and configuration. This configuration is also consistent with the CMP.

SEVENTH: The garage would permit the applicant 2 off street parking spaces.

EIGHTH: The architect testified that efforts to minimize or eliminate the variance proved unworkable due to the small size and configuration of the lot.

These Findings were moved and passed 4-0.

CONCLUSIONS OF LAW:

Upon motion, the ZBA elected to deliberate on the variances in an omnibus fashion.

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 variances does not create an undesirable change in the neighborhood. 4-0

SECOND: That no detriment to nearby properties will result from granting the variance. 4-0

THIRD: That the Applicant has demonstrated that there are no other means by which it could achieve its purpose without the requested variances.

FOURTH: That the variances are not substantial in light of the current conditions on the site. 4-0

FIFTH: That the hardship is self-created. 3-1.

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(s) applied for should be GRANTED with the following conditions:

Applicant is to return to the Planning Board for final site plan approval based on the current placement of the garage.

On a roll call, the vote was as follows:

Ayes: 4

Nays: 0

Abstain: 0

s/ Steven P. Knowlton

STEVEN P. KNOWLTON, Chairman
Zoning Board of Appeals, Nyack.