

**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 Knowlton, seconded by Member Dunnigan, and carried based upon a review of the evidence presented at the public hearing held on 27 October 2008 and 26 January 2009.

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

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In the Matter of the application of Isadora Guggenheim (8 Rockland Place)) an Area from VON Code 59-30A to permit two on site parking spaces where three are required.

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The Zoning Board of Appeals held a public meeting on the 27th day of October 2008, and today, 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 Variance as 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, including the file maintained by the Building Department referable to the hearings of the Nyack Planning Board on this matter which are incorporated and made part of this record and this Board's prior decision dated May 19, 2008 appended hereto;
2. Testimony of Robert Silarski, architect;
3. ZBA members' knowledge of the site in question and site visits by all members of the ZBA;

4. There was no public testimony.

THIRD: The site in question is located in the R-1 zoning district. The Applicant purchased the property in 1990 pursuant to the local zoning regulations.

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

FIFTH: Applicant seeks to permit a home office use with less than the required off-street parking.

SIXTH: This application was initially heard in October of 2007. At that time, the ZBA requested that the Applicant investigate alternatives that would obviate the need for the variance requested. The supplemental material dated January 12, 2009 is the result of that effort.

SEVENTH: From the materials submitted, the applicant states that only her patients would park in the on-site spaces. She has mitigated her parking need by arranging for herself and her part-time assistant to park off street and another location. Her shortfall is one space.

EIGHTH: Rockland Place is a small, one block, narrow residential street. Each of the neighbors who testified previously in opposition to the prior variance requests noted this fact, and had concerns over the increased traffic and parking difficulties exhibited since the Applicant's clinic opened on the street in 2006

NINTH: The Applicant has agreed to restrict her patient hours to those between 8 AM and 6 PM. In the view of the Planning Board, this restriction will ameliorate the intensity of use on the street.

These Findings were moved and passed. 4-0

CONCLUSIONS OF LAW:

In relation to the variance from VON Code 59-30 to permit two off street spaces where three are required 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 is no other means by which it

could achieve its purpose without the requested variance. 4-0

FOURTH: That the variance is/ is not substantial in light of the current conditions on the site.
4-0

FIFTH: That the hardship is self-created. 4-0

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(s) applied for should be GRANTED with the following conditions, to which the Applicant has agreed through Mr. Silarski:

That the Applicant restrict patient visiting hours to between 8 AM and 6 P.M.; that the Applicant and her part time assistant utilize off-street parking in a location other than 8 Rockland Place for their personal cars during patient visiting hours.

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.