

**REGULAR MEETING  
ZONING BOARD OF APPEALS**

Nyack Village Hall  
Nyack, New York

April 27, 2009

Present: Steven P. Knowlton, Chair  
Mary Ann Armano  
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 April 27, 2009.

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

-----X

In the Matter of the application of LenLinda Management Corp. (122-124 Main Street) for Area Variances from VON Code Article VI, Section 59-30A to permit a variance of four parking spaces (34 required and 30 spaces grandfathered) and from 59-19B, to permit a residential density of 8 units where 3 is permitted; and a Special Permit to permit residential use over non-residential use in the C-1 zone and to permit 2 units of less than 400 sq. ft. (59-10(2)(a) and (a)(5)).

-----X

The Zoning Board of Appeals held a public meeting on the 27th day of April 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 and 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. The testimony of Kier Levesque for the Applicant;

3. ZBA members knowledge of the site in question
4. The recommendations of the Planning Board in relation to the variance requests

**THIRD:** The site in question is located in the C-1 zoning district. The Applicant is the contract vendee and will purchase the property pursuant to the local zoning regulations.

**FOURTH:** The Nyack Planning Board has issued a positive recommendation to this Board in relation to the residential density variance and Special Permit requests and a negative recommendation in relation to the parking variance request.

**FIFTH:** A contract vendee wishes to update the retail portion of this site which currently houses a hardware store. The upper floors of the buildings, variously used as storage, display space, commercial and other uses, is planned to contain 8 residential units.

**SIXTH:** 2 of the planned units would be less than 400 sq.ft. in livable area.

**SEVENTH:** The site has 30 parking spaces grandfathered to it, but requires 34 spaces as designed.

**EIGHTH:** The proposed plan comports with the CMP Downtown recommendations regarding residential development in the downtown.

These Findings of Fact were moved and passed unanimously.

#### **CONCLUSIONS OF LAW:**

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 in relation to the Application for a variance from 59-30 (parking):

**FIRST:** That the proposed variances does not create an undesirable change in the neighborhood.

**SECOND:** That no detriment to nearby properties will result from granting the variance.

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

**FOURTH:** That the variance is not substantial in light of the current conditions on the site.

**FIFTH:** That the hardship is not self-created.

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.

On a roll call, the vote was as follows:

Ayes: 5

Nays: 0

Abstain: 0

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 in relation to variance request from 59-19B (residential density):

**FIRST:** That the proposed variances does not create an undesirable change in the neighborhood.

**SECOND:** That no detriment to nearby properties will result from granting the variance.

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

**FOURTH:** That the variance is not substantial in light of the current conditions on the site.

**FIFTH:** That the hardship is not self-created.

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.

On a roll call, the vote was as follows:

Ayes: 5

Nays: 0

Abstain: 0

As to the Application for a Special Permit and amendment thereto, The Zoning Board considered the factors set forth in Section 59-39(C) *et. seq.* and makes these 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 residential 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.

The Board has weighed the findings of fact and the conclusions of law as required under VON Code Section 59-39(C) *et. seq.* and finds in the interest of justice that the Special Permit should be GRANTED with the following conditions, which apply also to the variances granted:

Recommendation of the Planning Board to be followed.

On a roll call, the vote was as follows:

|          |   |
|----------|---|
| Ayes:    | 5 |
| Nays:    | 0 |
| Abstain: | 0 |

*s/ Steven P. Knowlton*

---

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