

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

June 29, 2009

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

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 June 29, 2009

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

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In the Matter of the application of Leber Realty (21 Route 59—Trustco. Bank) for an area variance from Section 59-25 M(3) to permit an internally illuminated sign

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The Zoning Board of Appeals held a public meeting on June 29, 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: That the applicant comes before the ZBA seeking an area variance from Section 59-25 M(3) to permit an internally illuminated sign. This is a renewal of an application for a variance that was previously granted but never exercised.

SECOND: That in reaching the below Findings of Fact and Conclusions of Law, the ZBA relied upon the following evidence adduced at the hearing(s) above:

1. The application and oral testimony of John Renzi for the Applicant.

2. The ZBA members knowledge of the site in question;
3. Positive Recommendation of the ARB;
4. The Findings and Conclusions of Law of the ZBA in the prior application dated November 29, 2004 granting the same application and appended hereto
5. Site visits by all members of the ZBA.

THIRD: The site in question is located in the C-2 zoning district.

FOURTH: The sign will be illuminated by fluorescent illumination as submitted. The total wattage will be submitted to the Building Department within 7 days. Illumination will be from dusk to 11 PM, seven days per week. The store front is 31 feet from Route 59 and below the grade of the elevated New York State Thruway.

FIFTH: That all other commercial businesses near the site also utilize internally illuminated signs.

SIXTH: That Architectural Review Board has approved the sign and made a positive recommendation to this Board for the grant of the variance. The sign applied for is of the same style and type as the sign approved for Quiznos.

SEVENTH: While no comment has yet been received from the County Planning Board, for purposes of this decision the ZBA will assume a negative recommendation as was received for the prior 2004 application.

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:

FIRST: That the proposed variance creates no undesirable change in the neighborhood in that it proposes signage consistent with that already in place in the district. (5-0)

SECOND: That no detriment to nearby properties will result from granting the variance, in that the signage will not negatively impact surrounding properties nor impact local traffic due to the location of the building. (5-0)

THIRD: That the Applicant has demonstrated that there is no lesser means by which he could achieve his purpose without the requested variance. (5-0)

FOURTH: That the variance is not substantial in light of the current conditions on the site. (5-0)

FIFTH: That the hardship is not self-created. (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 variance should be GRANTED with the following conditions, to which the applicant has consented:

The recommendations of the Architectural Review Board shall be followed. The technical and wattage specifications of the fixture shall be submitted to the Building department within 7 days.

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.