

**REGULAR MEETING  
ZONING BOARD OF APPEALS**

Nyack Village Hall  
Nyack, New York

January 31, 2011

Present: Catherine Friesen, Chair (recused)  
Robert Knoebel, Sr. (Acting Chair)  
John Dunnigan  
Ellyse Berg

**In Memoriam:**  
Raymond O'Connell

Absent: Mary Ann Armano

The following resolution was offered by Member Knoebel, seconded by Member Berg, and carried based upon a review of the evidence presented at the public hearing held on January 31, 2011.

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

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In the Matter of the application of John Colgan for Grace Episcopal Church (137 First Avenue) for the following Area Variances from VON Code Article 59-5.3 (Table 4-1: Dimensional Standards):

- a) Minimum lot area of 3,525 square feet where 10,000 sq. ft. is required;
- b) Minimum lot width of 38' where 75' is required;
- c) Lot depth of 90' where 100' is required;
- d) One side yard setback of 1.0' where 5' is required;
- e) Both side yard setback of 7.0' where 11.4' is required;
- f) Rear yard setback of 27.5' where 27.83' is required;
- g) Building height of 2½ stories where 2 stories are permitted;
- h) FAR of 0.65 where 0.43 is permitted.

-----X

The Zoning Board of Appeals held a public meeting on January 31, 2011, 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 John Colgan, on behalf of the Applicant;
3. Testimony of the following member of the public: Roger Cohen
4. ZBA members knowledge of the site and site visits by all members;
5. Positive recommendation of the Planning Board for the grant of the variances.

**THIRD:** The site in question is located in the TFR zoning district and in a designated view corridor. The Applicant purchased the property in 1954 pursuant to the local zoning regulations.

**FOURTH:** The applicant wishes to convert a single family residence with a child care center on the first floor to a two family residence without a child care center, and does not propose to alter the external structure. The proposed two family use is permitted in the TFR district, and, in the past, the building was used as a two-family residence. The conversion requires the variances noted above.

**FIFTH:** The Nyack Planning Board has issued a positive recommendation to this Board in relation to the variance requests, based on the fact that the neighborhood is distinctly one and two family residences on smaller sized lots, with no commercial use, and the proposed use is similar to others in the neighborhood; and that no significant changes or impacts will occur by the conversion of this space to its original use as a two family residential dwelling.

**SIXTH:** These area variances are exempt from review under SEQRA as they involve a one or two family home.

These Findings of Fact were moved and passed (3-0)

### **CONCLUSIONS OF LAW:**

Upon motion the ZBA elected to deliberate 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 do not create an undesirable change in the neighborhood. (3-0)

**SECOND:** That no detriment to nearby properties will result from granting the variance. (3-0)

**THIRD:** That the Applicant has demonstrated that there are no other means by which it could achieve its purpose without the requested variances. (3-0)

**FOURTH:** That the variances are not substantial in light of the current conditions on the site.  
( 3-0)

**FIFTH:** That the hardship is not self-created. (2-1)

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 variances applied for should be GRANTED with the following condition, to which the applicant has consented.

Applicant shall provide the Building Inspector with proof of mailing by 5 pm on Friday February 4, 2011.

On a roll call, the vote was as follows:

Ayes: 3

Nays: 0

Abstain: 1 (Friesen)

Absent: 1 (Armano)

*Robert Knoebel, Sr.*

Robert Knoebel, Sr., Acting Chair  
Zoning Board of Appeals, Nyack.