

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

June 28, 2010

Present: Catherine Friesen, Chair
Mary Ann Armano
John Dunnigan
Robert Knoebel, Sr.
Ellyse Berg

In Memoriam:
Raymond O'Connell

The following resolution was offered by Member Berg, seconded by Member Dunnigan, and carried based upon a review of the evidence presented at the public hearing held on June 28, 2010.

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

-----X

In the Matter of the application of Robert and Elizabeth Roach (103 Sixth Avenue) for an Area Variance from VON Code Article 59-4.3 (Table of Dimensional Standards) to permit an existing front yard setback of 21'3" where 22'11" are required and an existing lot area of 5735.5 square feet where 7500 square feet is required.

-----X

The Zoning Board of Appeals held a public meeting on June 28, 2010, 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 Randy Bennett, Architect, and Michael DeMarco, Builder, for the Applicant;
3. ZBA members knowledge of the site and site visits by all members;
4. Positive recommendations of the Planning Board and the ARB for the grant of the

variances.

THIRD: The site in question is located in the SFR-1 zoning district and is in a designated view corridor. The Applicant purchased the property roughly 35 years ago pursuant to the local zoning regulations.

FOURTH: The applicant wishes to construct an addition in the rear yard of his single-family home. Although the proposed rear yard addition setbacks are code compliant, VON Code 59-1.9(E) provides that: “The alteration, enlargement or horizontal extension of a building that is nonconforming with respect to dimensional and development standards, as specified in Article IV of this chapter, shall require a variance from the Zoning Board of Appeals”. Due to changes in the Code, the applicant’s home is now non-conforming with respect to the dimensional standards set forth above.

FIFTH: The addition which the applicant seeks to build is one story in height, is approximately 160 square feet, and will totally replace an existing porch.

SIXTH: Both the Nyack Planning Board and the ARB have issued positive recommendations to this Board in relation to the variance requests. The Planning Board also granted conditional approval of the site plan.

SEVENTH: In making its recommendation, the Planning Board determined that the one story addition was reasonably spaced and sized and otherwise planned to avoid negative impacts on the neighbors, and that it would not obstruct the sight lines of other dwellings in the neighborhood.

EIGHTH: The addition will not obstruct the views of the neighbors on either the eastern or western side of the property.

NINTH: This area variance is exempt from review under SEQRA as it involves a one or two family home.

These Findings of Fact were moved and passed 5-0.

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 does not create an undesirable change in the neighborhood. (5-0)

SECOND: That no detriment to nearby properties will result from granting the variance. (5-

