

**REGULAR MEETING  
ZONING BOARD OF APPEALS**

Nyack Village Hall  
Nyack, New York

April 26, 2010

Present: Catherine Friesen, Chair  
Mary Ann Armano  
John Dunnigan

**In Memoriam:**  
Raymond O'Connell

Absent: Ellyse Berg  
Robert Knoebel, Sr.

The following resolution was offered by Member Dunnigan, seconded by Member Armano, and carried based upon a review of the evidence presented at the public hearing held on April 26, 2010.

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

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In the Matter of the application of George and Smaragda Thomas (136 High Avenue) for Area Variances from VON Code Article 59-4.3 (Table of Dimensional Standards) to permit an existing front yard setback of 23 feet where 27.6 feet is required and an existing lot width of 45.27 feet where 50 feet is required.

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The Zoning Board of Appeals held a public meeting on the April 26, 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 George Thomas, Applicant, and John Ferrera, Architect, 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 TFR zoning district and in a designated view corridor. The Applicant purchased the property in 1999 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 23 feet by 25 feet, and will primarily replace a deck.

**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 drainage was adequately addressed by the proposal, that there will be no increase in impervious surfaces as a result of the addition, and that the addition will not obstruct the view corridor.

**EIGHTH:** It further appears that the proposal does not change the parking on the lot which conforms to Code.

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

**TENTH:** 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 3-0.

### **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 variances do not create an undesirable change in the neighborhood. (3-0)

