

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

January 25, 2010

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

In Memoriam:
Raymond O'Connell

The following resolution was offered by Member Armano, seconded by Member Berg, and carried based upon a review of the evidence presented at the public hearing held on January 25, 2010.

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

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In the Matter of the application of Andrew Poma for Nyack Farmer's Market for Special Permits in accord with 59-25F to permit direct illumination of 2 signs.

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The Zoning Board of Appeals held a public meeting on the 25th day of January, 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 Nyack Farmer's Market petitions the Zoning Board for the Special Permits as set forth 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 Kier Levesque on behalf of the Applicant
3. ZBA members knowledge of the site in question;
4. Site visits by all members of the ZBA;

5. There was no public testimony.

THIRD: The site in question is located in the C-2 zoning district. The Applicant leased the property in approximately February 2008 and has previously submitted proof of permission from the owner to install the signs.

FOURTH: The Nyack Architectural Review Board has issued a positive recommendation to this Board in relation to Special Permit request for direct illumination of the two signs.

FIFTH: The Applicant seeks the signs to advertise his business and enhance sales in the downtown district.

SIXTH: The ARB did not require any modifications to the existing signs.

SEVENTH: Direct illumination of the free-standing sign located at the eastern entrance to the parking lot will consist of 2 ground-level spot lights, with the wattage for each fixture to be 150 watts. Direct illumination of the sign on the façade of the building will be 3 goose-neck fixtures. Wattage for each fixture will be 150 watts.

EIGHTH: Hours of operation of the lighting will be 7 AM to 8 pm Sunday through Thursday; and 7 AM through 9 pm Friday and Saturday.

The above Findings were moved and passed. (5-0)

CONCLUSIONS OF LAW:

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 conditions

with the following conditions:

1. Applicant shall provide to the Building Inspector with proof of mailing within 5 days of this decision;
2. The Applicant shall ensure that there is no spillover of light from the direct illumination of the free-standing sign at the bottom of the parking lot to either traffic entering or exiting the parking lot or to traffic proceeding in either direction on Route 59, and any spillover will be remediated immediately.

On a roll call, the vote was as follows:

Ayes: 5

Nays: 0

Abstain: 0

CATHERINE H. FRIESEN, Chairperson
Zoning Board of Appeals, Nyack.