

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

July 26, 2010

Present: Catherine Friesen, Chair
John Dunnigan
Robert Knoebel, Sr.
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 July 26, 2010.

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

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In the Matter of the application of Doug and Jack Charney (76 Sixth Avenue) for an Area Variance from VON Code Article 59-4.3 (Table of Dimensional Standards) to permit an alteration to the roof of an existing bathroom on a non-conforming third-floor where building height is restricted to two stories.

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The Zoning Board of Appeals held a public meeting on July 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 variance 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 Michael Esmay, Architect, for the Applicants;
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

variance.

THIRD: The site in question is located in the TRF zoning district and is in a designated view corridor. The Applicant purchased the property within the last year pursuant to the local zoning regulations.

FOURTH: The applicant wishes to alter an existing bathroom located on a nonconforming third floor, where building height is restricted to two stories. 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”.

FIFTH: The proposed alteration consists of the raising of the roof over an existing bathroom to gain more headroom, and involves adding 290 cubic feet to the volume of the existing bathroom. There is no way to add headroom to the bathroom without the proposed variance.

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. In making its recommendation, the Planning Board characterized the Applicant’s situation as “unique” and found that there would be no material change to the nature and character of the neighborhood, no interference in neighborhood views or site lines and that the requested variance was minor.

SEVENTH: The addition will not obstruct the views of the neighbors on either the eastern or western side of the property because of the slope of the hill.

EIGHTH: 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 4-0.

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. (4-0)

SECOND: That no detriment to nearby properties will result from granting the variance. (4-0).

THIRD: That the Applicant has demonstrated that there are no other means by which it could achieve its purpose without the requested variance. (4-0)

FOURTH: That the variance is not substantial in light of the current conditions on the site. (4-0)

FIFTH: That the hardship is not self-created. (4-0)

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

- (1) The directives of the Architectural Review Board and the Planning Board shall be followed

On a roll call, the vote was as follows:

Ayes: 4

Nays: 0

Abstain: 0

/s/
CATHERINE H. FRIESEN, Chair
Zoning Board of Appeals, Nyack.