

**REGULAR MEETING  
ZONING BOARD OF APPEALS**

Nyack Village Hall  
Nyack, New York

January 26, 2009

Present: Steven P. Knowlton, Chair  
Mary Ann Armano (absent)  
John Dunnigan  
Robert Knoebel, Sr.  
Ellyse Berg

**In Memoriam:**  
Raymond O'Connell

The following resolution was offered by Member Knowlton, seconded by Member Knoebel, and carried based upon a review of the evidence presented at the public hearing held on the 26<sup>th</sup> day of January, 2009.

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

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In the Matter of the application of Arlene Levinson (112 Gedney Street) for Area Variances from VON Code 59-19A Lot and Bulk table, to permit a lot coverage of 55% where 28% is the maximum and 44% is existing; a rear yard setback of 16.3 feet where 26 feet is the minimum; and from 59-33C to permit and increase in the non-conformity of existing side yard setbacks

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The Zoning Board of Appeals held a public meeting on the 26<sup>th</sup> day of January 2009, 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 Arlene Levinson, Applicant;
3. ZBA members knowledge of the site in question
4. Site visits by all members of the ZBA;
5. Testimony of Barbara Weinthal (opposed) and Annie Jahnes, members of the public.

**THIRD:** The site in question is located in the R-1 zoning district. The Applicant purchased the property in August of 2000 pursuant to the local zoning regulations.

**FOURTH:** The Nyack Planning Board has issued a positive recommendation to this Board in relation to the variance requests.

**FIFTH:** The applicant wishes to add a sunroom on the rear of her attached condominium unit. The variance requests stem from the unique nature of the units which are all attached (0 side yard setbacks) and have small yards. It is clear that there is no other location for this addition.

**SIXTH:** Due to information gleaned at the Planning Board hearings, the applicant has agreed to decrease the dimensions of the sunroom so as not to encroach on a drainage easement. Additionally, the applicant has agreed that her contractor will access her yard only through her unit, thereby not disturbing her neighbors or requiring access through their properties.

**SEVENTH:** Purpose of the addition is to provide an interior dining area.

**EIGHTH:** Neighbor Weinthal (25 Ackerman) objected to any use of her property for contractor access/egress and testified to prior instances where workers of Ms. Levinson utilized her property for access without her permission. Ms. Weinthal also objected to the visual appearance of the sunroom, and the appearance of the garden shed that pre-existed Ms. Levinson's purchase of the property. Ms. Jahnes was concerned with the drainage easement.

### **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 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 variances. 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 self-created.

The ZBA notes that in the ordinary course, variances of these proportions would ordinarily give pause. Due to the unique nature of the building and units however, the ZBA notes that this decision is based on the unique and individual characteristics of the property, and does not consider the decision precedential, nor will the Board be bound by it within the confines of any future application

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(s) applied for should be GRANTED with the following conditions:

1. The directives of the Planning and Architectural Review Boards are considered conditions on the grant of the variances.
2. Contractor access will take place only through the Applicant's unit. No access or egress for construction is to take place over neighboring properties without the express, written permission of the landowner.

On a roll call, the vote was as follows:

Ayes:	4
Nays:	0
Abstain:	0

*s/ Steven P. Knowlton*

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STEVEN P. KNOWLTON, Chairman  
Zoning Board of Appeals, Nyack.