

**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 January 26th, 2009.

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

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In the Matter of the application of Gerard and Elvira Francisco (161 Sickles Avenue) for an Area Variance from VON Code59-30 J to permit the parking of 2 cars in the front yard.

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The Zoning Board of Appeals held a public meeting on the 26th 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:

It should be noted that during the presentation, the Applicant amended his application to seek three spaces in the front yard instead of two.

FINDINGS OF FACT & CONCLUSIONS OF LAW

FIRST: Applicants petition the Zoning Board for the variance noted above with the oral amendment to his application. The application is brought as a result of a pending violation.

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 Gerard Francisco, 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 R-1 zoning district. The Applicant purchased the property in December of 2005 pursuant to the local zoning regulations.

FOURTH: The Nyack Planning Board has issued a positive recommendation to this Board in relation to the variance request to permit two spaces in the front yard.

FIFTH: The applicant originally sought approval for three parking spaces in the front yard. The application was voluntarily amended to seek two. The applicant has orally amended his application to seek a variance for three cars in the front yard. The applicant has, for some time, been using the entire front yard of the premises as a parking lot for three cars.

SIXTH: The building on the premises is non-conforming as to side yards, and thus presently has no driveway in either side yard. An addition was placed on the east side of the building which eliminated the possibility of any side yard driveway. The Applicant is unaware of when the addition was built, as is the Building Department. The Applicant purchased the property in its present configuration.

SEVENTH: The building is a two storey (with attic) wood frame structure. The Applicant testified that there are currently four persons living in the building.

EIGHTH: The applicant has submitted photographs of neighboring properties which he contends supports the contention that the grant of the variance would not have an adverse impact on the neighborhood.

NINTH: No other property on that block of Sickles Avenue has more than single car parking in the front yard.

TENTH: The front yard currently has no landscaping. There is a significant tree on the east property line whose root system would be compromised by any application of blacktop or other surface as per the Planning Board's findings

These Findings 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 variances creates an undesirable change in the neighborhood. 4-0

SECOND: That a detriment to nearby properties will result from granting the variance. 4-0

THIRD: That the Applicant has not 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 substantial in light of the current conditions on the site. 4-0

FIFTH: That the hardship is self-created. 3-1

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 DENIED.

On a roll call, the vote was as follows:

Ayes: 4

Nays: 0

Abstain: 0

s/ Steven P. Knowlton

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