

**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 Dunnigan, seconded by Member Berg, and carried based upon a review of the evidence presented at the public hearing held on January 26, 2009.

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

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In the Matter of the application of Provident Bank for Area Variances from VON Code Section 59-25M(3) to permit one internally illuminated sign.

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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 Application, counsel for Provident advised the ZBA that the application was being amended seeking an appeal from the Chief Building Inspector's determination that a variance was necessary based upon the text of 59-25M(3). The ZBA agreed to entertain that appeal.

FINDINGS OF FACT & CONCLUSIONS OF LAW

FIRST: Applicant petitions the Zoning Board for the Variance 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 Ira Emmanuel, Esq. counsel for Applicant; and Chris Lewis, of Lewis Sign Co. for 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
6. Testimony of the Chief Building Inspector in relation to his determination that a variance from 59-25M(3) was required.

THIRD: The site in question is located in the C-2 zoning district. Applicant is the contract purchaser. Closing is anticipated in the Spring of this year.

FOURTH: The Nyack Architectural Review Board has issued a positive recommendation to this Board in relation to the variance request related to internal illumination. The Nyack Planning Board has issued site plan approval based partly on the location of the pylon sign

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

SIXTH: Interior illumination will consist of 480 watts.

SEVENTH: Hours of operation of the lighting will be dusk to dawn, 7 days per week.

These Findings were moved and passed 4-0.

CONCLUSIONS OF LAW:

Upon oral motion, the ZBA deliberated and AFFIRMED the Building Inspector's determination referable to the 59-25M(3) variance.

The Zoning Board then 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 not 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 GRANTED with the following conditions:

1. The conditions placed by the ARB and Planning Board on this application shall be followed. Any deviation from, or failure to adhere to such conditions will void the variances.
2. The wattage shall be 480 watts, with hours of operation as noted above.

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.