

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

September 28, 2009

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

In Memoriam:
Raymond O'Connell

The following resolution was offered by Member Knowlton, seconded by Member Armano, and carried based upon a review of the evidence presented at the public hearing held on September 28, 2009.

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

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In the Matter of the application of Arthur Cassidy (67 Main Street) for a Special Permit pursuant to VON Code 59-10B(2)(a) et. Seq. to permit non-residential use over retail space.

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The Zoning Board of Appeals held a public meeting on the 28th day of September 2009, and due deliberations having been made this day;

Due to the untimely death of the Chief Building Inspector and no appearance by the Building Department at the hearing, the Applicant was given the opportunity to adjourn until the October hearing. The Applicant declined.

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 Special Permit as 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. The testimony of Kier Levesque and Arthur Cassidy;

3. Site visits by all members of the ZBA;
4. Knowledge of the site in question of the ZBA;
5. Positive recommendation of the Nyack Planning Board;
6. Testimony of no members of the public;

THIRD: The site in question is located in the R-M zoning district. The Applicant purchased the property in 2007 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 wished to add retail space in the front room of the first floor. The required fire break per code is already in place. The residential uses would consist of 2 1 bedroom apartments. These units are already occupied.

SIXTH: The site already has an excess of grandfathered parking spaces so no new parking would be required.

SEVENTH: The applicant's plan is consistent with the stated goals of the Comprehensive Master Plan to bring increased residential density to the downtown.

As to the Application for a Special Permit, 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 following conditions:

That the directives of the Planning Board be followed.
Grant is conditional upon confirmation of notice by the Building Department.

s/ Steven P. Knowlton

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