

**REGULAR MEETING  
ZONING BOARD OF APPEALS**

Nyack Village Hall  
Nyack, New York

September 28, 2015

Present: Catherine Friesen, Chair  
John Dunnigan  
Robert Knoebel, Sr.  
Ellyse Berg  
Roger Cohen (alternate)

**In Memoriam:**  
Raymond O'Connell

Absent: Mary Ann Armano

The following resolution was offered by Member Cohen, seconded by Member Berg and carried based upon a review of the evidence presented at the public hearing held on September 28, 2015.

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

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In the Matter of the application of Jessie and Brett Brigham (202 High Ave) for an area variance from Article I VON Code 360-1.9E for the alteration or enlargement of a Building that is nonconforming with respect to the following dimensional and developmental standards: Minimum lot area of 4799 square feet where 5000 square feet is required; lot width of 40 feet where 50 feet is required; minimum front yard of 12.6 feet where 24 feet are required and a minimum side yard of 1.4 feet where 5 feet are required.

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The Zoning Board of Appeals held a public meeting on the 28<sup>th</sup> Day of September, 2015, and due deliberations having been made that 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:** The Applicant petitions the Zoning Board for area variances 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 Rob Palmerini, Architect, on behalf of the Applicant, and Brett Brigham, Applicant.
3. ZBA members' knowledge of the site in question;
4. Site visits by all members of the ZBA;
5. Building Inspector's Plan Review Summary dated September 28, 2015;
6. There was no testimony from any member of the public.

**THIRD:** The site in question is located in the TFR zoning district. The property owner acquired the property in 2015 pursuant to the local zoning regulations.

**FOURTH:** As part of a renovation of his home, the Applicant proposes to remove an existing covered porch structure and rebuild a new enclosed structure in the same location on the existing brick piers, and to remove an existing rear patio and enclosed rear entry and replace them with a larger deck. The existing property is non-conforming with respect to lot size, lot width, front yard setback and side yard setback, and the proposed renovations will not increase, enlarge or extend these existing non-conformities.

**FIFTH:** Both the ARB and the Nyack Planning Board issued positive recommendations to this Board in relation to the variance request.

**SIXTH:** 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. (5-0)

### **CONCLUSIONS OF LAW:**

On oral motion the Zoning Board voted to consider the variances in an omnibus fashion.

The Zoning Board considered the factors set forth in Section 7-712-b(3)(b) of the Village Law of the State of New York as follows:

**(1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.**

**FIRST:** That the proposed variances do not create an undesirable change in the character of the neighborhood or a detriment to nearby properties. This conclusion was reached based upon deliberations of the Zoning Board at the public hearing, and based upon the factual findings set forth above in paragraphs 4 and 5. (5-0).

**SECOND:** That the Applicant has demonstrated that there are no other means by which they could achieve their purpose without the requested variances. This conclusion was reached based upon deliberations of the Zoning Board at the public hearing, and based upon the factual findings set forth above in paragraph 4. (5-0)

**THIRD:** That the variances are not substantial in light of the current conditions on the site. This conclusion was reached based upon deliberations of the Zoning Board at the public hearing, and based upon the factual findings set forth above in paragraph 4 and 5. (5-0)

**FOURTH:** That the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This conclusion was reached based upon deliberations of the Zoning Board at the public hearing, and based upon the factual findings set forth above in paragraphs 4, 5, 6. (5-0)

**FIFTH:** That the hardship is self-created. This conclusion was reached based upon deliberations of the Zoning Board at the public hearing, and based upon the factual findings set forth above in paragraphs 3 and 4. (5-0)

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 variances applied for should be GRANTED with the following conditions:

1. The directives of the Planning Board and Architectural Review Board are followed;

On a roll call, the vote was as follows:

Ayes: 5 (Friesen, Knoebel, Dunnigan, Berg, Cohen)

Nays: 0

Abstain: 0

Catherine H. Friesen  
CATHERINE H. FRIESEN, Chairperson  
Zoning Board of Appeals, Nyack