

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

January 25, 2016

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

In Memoriam:
Raymond O'Connell

Absent: Mary Ann Armano

The following resolution was offered by Member Berg, seconded by Member Cohen, and carried based upon a review of the evidence presented at the public hearings held on January 25, 2016.

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

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In the Matter of the application of Nick Predescu for (78 South Broadway) for an Area Variance from VON Code Section 360-4.5B(3) to permit a deficit of 3 off street parking spaces, and from VON Code Section 360-4.3 Dimensional Standards Table 4-1 for an increase in FAR from 1.55 to 2.1, and for a FAR of 2.1 where 2.0 is permitted by Code

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The Zoning Board of Appeals having held a public meeting on January 25, 2016, and due deliberations having been made;

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 Kier Levesque, Architect, on behalf of the Applicant, and Nick Predescue;
3. Minutes of the Planning Board dated December 7, 2015;
4. Positive recommendation from the Planning Board,
5. ZBA members knowledge of the site in question, including site visits by all members of the ZBA;
6. Letter from Ed Mistretta, 85 South Broadway, in support of the application.
7. There was no testimony from members of the public.

THIRD: The site in question is located in the DMU zoning district. The Applicant recently purchased the building.

FOURTH: The Applicant seeks to renovate the interior basement space of the existing 3 story, mixed use building. The first floor of the building is currently non-residential, while the upper two stories are residential. The basement, which is currently used for storage, will be converted to a retail or business use. While in the past, the basement has been used for various commercial purposes, no certificate of compliances for the previous uses were ever obtained, and the current proposal requires both a parking variance for a deficit of 3 spaces and a variance from the allowable FAR.

FIFTH: The Nyack Planning Board has issued a positive recommendation to this Board in relation to the variance requests, noting that parking is not perceived as a problem in area where the building is located and that the proposed use is retail.

SIXTH: The site is located near the south end of Nyack's business district in close proximity to parking on the thoroughfares of Cedar Hill Avenue and South Broadway.

SEVENTH: This is an unlisted action under SEQRA with no environmental impact.

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 3, 4, 5 and 6. (5-0).

SECOND: That the Applicant has demonstrated that there are no other means by which it could achieve its purpose without the requested variance. 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)

THIRD: That the variance is 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 paragraphs 3 and 4. (5-0)

FOURTH: That the proposed variance 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 paragraph 5, 6 & 7. (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 variance applied for should be GRANTED

with the following condition to which the Applicant has agreed: the directives of the Planning 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.