

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

May 23, 2016

Present: Catherine H. Friesen, Chair
Mary Ann Armano
John Dunnigan
Ellyse Berg
Roger Cohen

In Memoriam:
Raymond O'Connell

The following resolution was offered by Member Berg, seconded by Member Armano, and carried based upon a review of the evidence presented at the public hearings held on May 23, 2016.

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

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In the Matter of the application of Richard Piccini
(36 Summit Street) for area variance from VON Code
Section 360-4.3, Dimensional Standards Table 4-1,
For a three story building where 2 are permitted.

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The Zoning Board of Appeals held a public meeting on the 23rd Day of May 2016, 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: Applicant, Richard Piccini, petitions the Zoning Board of Appeals for the variance 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 Richard Piccini, Applicant, and Karl Ackerman, Architect, on behalf of the Applicant;
3. ZBA members knowledge of the site in question and site visits by all members of the

ZBA;

4. Positive recommendation from the ARB dated April 20, 2016;
5. Positive recommendation from the Planning Board dated May 6, 2016;
6. There was no testimony from any member of the public.

THIRD: The site in question is located in the TFR zoning district, and is owned by the Applicant. The applicant purchased the property in March 2016 pursuant to the local Zoning regulations.

FOURTH: The TFR zoning district permits a two story building with a maximum allowable height of 32'. The applicant is proposing to renovate the residence to provide for habitable attic space which creates a third story even though the height remains unchanged. The Applicant needs additional living space in the 1 family house which is approximately 1700 square feet.

FIFTH: The Planning Board issued a positive recommendation to the ZBA to grant a variance, and gave conditional site plan approval. The ARB also issued a positive recommendation with respect to the grant of the necessary variance at its meeting on April 20, 2016.

SIXTH: This is a Type II action under SEQRA which has no environmental impact.

The above Findings were moved and passed. (5-0)

CONCLUSIONS OF LAW:

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 variance does 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. (5-0).

SECOND: That the Applicant has demonstrated that there are no other means by which he could achieve his 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 paragraph 4. (5-0)

THIRD: That the variance is 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. (5-0)

FOURTH: That the proposed variance will not 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 5 and 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 paragraph 3. (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:

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

On a roll call, the vote was as follows:

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

Nays: 0

Abstain: 0

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