REGULAR MEETING
ZONING BOARD OF APPEALS

Nyack Village Hall
Nyack, New York

October 28, 2013

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

In Memoriam:
Raymond O'Connell

Absent: None

The following resolution was offered by Member Berg, seconded by Member Knoebel, and carried based upon a review of the evidence presented at the public hearing held on October 28, 2013.

BOARD OF APPEALS
VILLAGE OF NYACK, COUNTY OF ROCKLAND

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In the Matter of the Application of Sindi Landman
(277 High Avenue) for area variances
from VON Code Section 360-4.3 (Dimensional Standards)
Table 4-1 for a pre-existing minimum lot area of
4,522.23 ft² where 7500 ft² are required; pre-existing minimum
one side yard of 2.3 feet where 10 feet is required,
both side yards of 6.7 feet where 20 feet is required;
a pre-existing height of 2.5 stories where 2 is permitted; and a
continuation of two side yards of less than 10 feet where 10
feet is required.
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The Zoning Board of Appeals held a public meeting on the 28th Day of October, 2013, 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 Sindi Landman 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 Kier Levesque, Architect, on behalf of the applicant;
3. ZBA members' knowledge of the site in question;
4. Site visits by all members of the ZBA;
5. Minutes of the Planning Board dated October 7, 2013, and the Architectural Review Board dated September 18, 2013, and an e-mail from Eileen Kunstler-Collins, ARB Chair, dated October 27, 2013;
6. Building Inspector's Plan Review Summary dated October 28, 2013;
7. Testimony from Bill Demarest, 276 High Avenue.

THIRD: The site in question is located in the RMU zoning district. The Applicant acquired the property in 2013 pursuant to the local zoning regulations.

FOURTH: The Applicant proposes to construct a 744 square foot, two story addition to the rear of an existing residence which would include a bedroom, kitchen, and rear entry. The Applicant also proposes to construct a rear deck that is 16 feet by 8 feet. The current building and property are non-conforming with respect to lot area and side yard setbacks, and the proposed addition will extend two non-conforming side yards to the rear. According to the Applicant, the site and location of the addition at the rear of the home places it out of the view corridor of the street and the proposed construction is in keeping with the character of the neighborhood. The Applicant is also proposing to construct a very similar addition to the rear of the adjoining property at 275 High Avenue. The rear yards of both properties are relatively large, and they share an easement for a driveway that is located on 275 High Avenue.

FIFTH: The Nyack Planning Board and ARB have both given the project conditional site plan approval and issued positive recommendations to this Board in relation to the variance requests. The Planning Board noted the similarity between the proposed construction at this address and the adjoining property at 275 High Avenue, and found them to be an improvement over the existing dilapidated homes. It issued its positive recommendation on the condition that the house will remain a single family residence as that term is defined by the Zoning Code. Concerns initially raised by the ARB about the proposed construction were resolved at a special meeting held September 26, 2013, after the applicant modified the plans.

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 he could achieve his 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 and 5. (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;
2. The dwelling remain a single family home as that term is defined by the Zoning Code.

On a roll call, the vote was as follows:

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

Nays: 0

Abstain: 0

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