

**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 Dunnigan, seconded by Member Berg, 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**

-----X

In the Matter of the application of John Gromada and Barbara Cohig (8 First Avenue) for Area Variances from from VON Code Section 360-1.9E for alterations to a building that is non-conforming with respect to the following dimensional standards: lot area of 8,615 ft² where 10,000 ft² are required; rear yard of 13 feet where 34 feet is required; and a maximum building height of 32.67 feet/3 stories where 32 feet/2 stories is permitted.

-----X

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: Applicants John Gromada and Barbara Cohig petition 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 John Gromada, 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;
6. Building Inspector's Plan Review Summary dated October 28, 2013;
7. There was no testimony from any member of the public.

THIRD: The site in question is located in the TFR zoning district. The Applicant acquired the property in 1999 pursuant to the local zoning regulations. The Applicant previously received approvals from the Planning Board, ARB, and Zoning Board for a similar project but the approvals expired before the commencement of construction.

FOURTH: The Applicant proposes to demolish an existing garage and replace it with a one story kitchen addition that will create living space. The proposed addition is within the footprint of the existing structure, and does not change or increase the pre-existing nonconformities. There is adequate space for on-site parking in the driveway.

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 issued its positive recommendation on the condition that the house remains a two family residence as that term is defined by the Zoning Code. Neither the ARB nor the Planning Board raised any concerns about the size or location of the proposed addition.

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 one or two family home as that term is defined by the Zoning Code.

On a roll call, the vote was as follows:

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

Nays: 0

Abstain: 0

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