

**REGULAR MEETING  
ZONING BOARD OF APPEALS**

Nyack Village Hall  
Nyack, New York

July 28, 2014

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

**In Memoriam:**  
Raymond O'Connell

Absent:

The following resolution was offered by Member Armano, seconded by Member Berg, and carried based upon a review of the evidence presented at the public hearing held on July 28, 2014.

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

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In the Matter of the application of Robert Silarski on behalf of Mertz Realty/Adam Lipson (owner of 100 Main Street) for an Area Variance from VON Code Section 360-4.11E(1) for an illuminated parallel sign on the west wall of the building

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The Zoning Board of Appeals having held a public meeting on July 28, 2014 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 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 Robert Silarski, Architect, on behalf of the Applicant;

3. ZBA members knowledge of the site in question, including site visits by all members of the ZBA;
4. The positive recommendation of the ARB to this Board in relation to the grant of the variance (without the proposed lighting); and
5. There was no testimony from any member of the public.

**THIRD:** The site in question, located at 100 Main Street, is located in the DMU zoning district. The Applicant seeks permission for the installation of a 5' by 2'10" (15.5 sq. ft) parallel sign painted on the west wall of the building not fronting a street. The Applicant proposes to paint the name of the business (Karma Restaurant, Bar, Lounge) and an arrow directly on the wall. A variance for the installation of a similar sign (without illumination) was granted by the ZBA following a public hearing held on April 29, 2013, but the sign was not installed before the approval expired and a new tenant now occupies the space. A copy of the ZBA's prior resolution is attached hereto and incorporated by reference.

**FOURTH:** The Architectural Review Board issued a positive recommendation with respect to the proposed sign without the proposed lighting.

**FIFTH:** The Applicant has not submitted any proof establishing why external illumination would be appropriate or necessary in the proposed location high on a wall which towers over its neighbor to the west. Mr. Silarski could not point to an example of a similar illuminated sign in the downtown area. While the proposed lighting is intended to provide greater visibility to the sign, ZBA members observed that the surrounding ambient lighting is sufficient to illuminate the sign.

These Findings of Fact 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 and 4. (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 paragraph 3 and 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 paragraphs 3 and 4. (5-0)

**FOURTH:** That, without the proposed illumination of the sign, 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 paragraphs 3, 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 Architectural Review Board are followed;
2. No external illumination will be permitted.

On a roll call, the vote was as follows:

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

Nays: 0

Abstain: 0

Catherine H. Friesen  
Zoning Board of Appeals, Nyack

**REGULAR MEETING  
ZONING BOARD OF APPEALS**

Nyack Village Hall  
Nyack, New York

April 29, 2013

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

**In Memoriam:**  
Raymond O'Connell

Absent:

The following resolution was offered by Member Armano, seconded by Member Berg, and carried based upon a review of the evidence presented at the public hearing held on April 29, 2013.

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

-----X

In the Matter of the application of Robert Silarski on behalf of Mertz Realty/Adam Lipson (owner of 100 Main Street) for an Area Variance from VON Code Section 360-4.11E(1) for a parallel sign on the west wall of the building

-----X

The Zoning Board of Appeals having held a public meeting on April 29, 2013 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 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:

6. The application and supporting documents submitted;
7. Testimony of Robert Silarski, Architect, and Josh Lungen, tenant, on behalf of the

- Applicant ;
8. ZBA members knowledge of the site in question, including site visits by all members of the ZBA;
  9. The positive recommendation of the ARB to this Board in relation to the grant of the variance (without the proposed lighting);<sup>1</sup> and
  10. There was no testimony from any member of the public.

**THIRD:** The site in question, located at 100 Main Street, is located in the DMU zoning district. The Applicant seeks permission for the installation of a 30” by 84” parallel sign on the west wall of the building not fronting a street. The Applicant proposes to paint the name of the business (MOJO Restaurant and Lounge) directly on the wall. The applicant withdrew the request to illuminate the sign at the April 29<sup>th</sup> ZBA meeting.

**FOURTH:** The Applicant has submitted proof that the Village of Nyack has a long history of wall signs, and contends that the proposed sign is consistent with this history and would enliven an otherwise blank wall. The Applicant further notes that the total square footage of the signage for this business, including the proposed wall sign, will meet the code-mandated limit, and that an identical sign would be permitted on the wall fronting the street without obtaining a variance. The Applicant prefers to install the sign on the west wall rather than the front, in order to retain the simplicity of the current awning strip and make better use of the space.

**FIFTH:** The Architectural Review Board issued a positive recommendation with respect to the proposed sign without the proposed lighting.

These Findings of Fact were moved and passed (5-0).

### **CONCLUSIONS OF LAW:**

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

**FIRST:** That the proposed variance does not create an undesirable change in the neighborhood. (5-0)

**SECOND:** That no detriment to nearby properties will result from granting the variance. (5-0)

**THIRD:** That the Applicant has demonstrated that there are no other means by which it could achieve its purpose without the requested variance. (4-1, Knoebel dissenting)

**FOURTH:** That the variance is not substantial in light of the current conditions on the site. (5-0)

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<sup>1</sup> As noted below, the applicant withdrew the request to illuminate the sign at the ZBA meeting.

**FIFTH:** That the hardship is self-created. (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) Conditions imposed by ARB are followed.

On a roll call, the vote was as follows:

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

Nays: 0

Abstain: 0

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