

**REGULAR MEETING  
ZONING BOARD OF APPEALS**

Nyack Village Hall  
Nyack, New York

November 26, 2012

Present: Catherine Friesen, Chair  
John Dunnigan  
Robert Knoebel, Sr.  
Mary Ann Armano  
Ellyse Berg

**In Memoriam:**  
Raymond O'Connell

Absent: Roger Cohen (alternate)

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 November 26, 2012.

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

-----X  
In the Matter of the Application of Jeffrey Tognetti  
(20 Burd Street) for an area variance from VON Code  
Section 360-4.3, Dimensional Standards Table 4-1 for a  
combined side yard of 6.5 feet where 12 feet is required  
and from VON Code Section 360-1.9E for the  
alteration, enlargement and horizontal extension  
of a building that is non-conforming with respect to the  
following dimensional and development standards:  
lot area of 2990 square feet where 5,000 square feet are  
required, lot width of 40 feet where 50 feet is required;  
rear yard of 12 feet where 24.45 is required, and building  
height of 2½ stories where 2 is permitted.  
-----X

The Zoning Board of Appeals held a public meeting on the 26<sup>th</sup> Day of November, 2012,  
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 Jeffrey Tognetti 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, including the “Area Variance Narrative” dated November 14, 2012
2. Testimony of Robert Silarski, 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 November 5, 2012 and draft notes of the Architectural Review Board meeting of October 17, 2012;1
6. Resolution of the ZBA with respect to 20 Burd Street dated November 27, 2006; and
7. There was no testimony from members of the public.

**THIRD:** The site in question is located in the TFR zoning district and is in a view corridor. The Applicant purchased the property in 2012 pursuant to the local zoning regulations.

**FOURTH:** Applicant seeks to construct a carport in the driveway on the west side of a single family home which was constructed in 2011, approximately 5 years after the Zoning Board of Appeals previously granted area variances from then-existing VON Code 59-30 to permit a lot area of 2,990 square feet where 4,000 square feet were required, a front yard setback at Water Street of 5 feet where 20 is required, and a rear yard setback of 3 feet where 30 feet is required. A copy of this decision is annexed hereto and incorporated by reference. The proposed carport will be open on three sides, will have a glass roof, will be set back from the front of the house, and is tucked against the side of the house, all of which will minimize its visual impact. Runoff from the roof will be routed to the existing seepage pits.

**FIFTH:** The Nyack Planning Board has issued a positive recommendation to this Board in relation to the variance requests, and granted conditional site plan approval. The ARB also issued a positive recommendation with respect to the grant of the variances, and the applicant is scheduled to return to the ARB on November 28, 2012 for further review.

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

### **CONCLUSIONS OF LAW:**

After discussion, the ZBA agreed that the individual variances will be deliberated upon in an omnibus fashion.

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1 Minutes of the October 17, 2012 ARB meeting had not yet been transcribed at the time of the ZBA’s November 26<sup>th</sup> meeting.

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 variances do not create an undesirable change in the neighborhood. (5-0)

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

**THIRD:** That the Applicant has demonstrated that there are no other means by which it could achieve its purpose without the requested variances. (5-0)

**FOURTH:** That the variances are substantial in light of the current conditions on the site. (5-0)

**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 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 three sides of the carport will remain unenclosed in perpetuity.

On a roll call, the vote was as follows:

Ayes: 5

Nays: 0

Abstain: 0

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