

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

November 5, 2012

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

In Memoriam:
Raymond O'Connell

Absent: Mary Ann Armano
Roger Cohen (alternate)

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 November 5, 2012.

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

-----X
In the Matter of the Application of Andrew Gale
(20 Fifth Avenue) for an area variance from VON Code
Section 360-4.3, Dimensional Standards Table 4-1 for a
Rear yard of 15 feet where 25.37 feet is required
-----X

The Zoning Board of Appeals held a public meeting on the 5th 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 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. Oral testimony of Andrew Gale, Applicant, and Ann Harmon-Gale and Bart Rodi, Architect, on behalf of the Applicant;
3. Minutes of the Planning Board dated October 12, 2012;
4. Minutes of the ARB dated July 18, 2012, and September 19, 2012;
5. Positive recommendation of the Planning Board and the ARB for the grant of the variance;
6. Site visits by members of the ZBA and their knowledge of the site in question;
7. There was no testimony from the members of the public.

Third: The site in question is located in the SFR-1 zoning district and in a view corridor. The owners of the property, Andrew Gale, purchased the property in January 2011 pursuant to the local zoning regulations.

Fourth: The Applicant wishes to construct a two-story addition to the side and rear of his single family home which is situated on a 9,727 square foot corner lot facing Fifth Avenue. The addition, which is approximately 1,267 square feet, will encroach on the size of the rear yard, leaving 15 feet where 35.37 feet are required. The Applicant testified that an addition of that size could be situated to the west of the existing house without the need for a variance, but the proposed location is preferable for both aesthetic and functional reasons. Placement on the east side of the house would have required the removal of a large tree, leaving the proposed location as the only viable option. The Applicant further testified that there will be no impact on views.

Fifth: The Planning Board and the ARB both offered positive recommendations to the ZBA with respect to the grant of the variance. The ARB also gave conditional approval following two meetings and a workshop and the applicant's submission of revised plans designed to better blend the addition into the neighborhood. The Planning Board also granted conditional site plan approval. In making its recommendation to the ZBA, the Planning Board found that the neighborhood will not be negatively impacted, and that the project is an improvement which is in keeping with the neighborhood.

Sixth: This area variance is exempt from review under SEQRA as it involves a one or two family home.

Findings of Fact moved and passed (4-0)

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. (4-0)

SECOND: That no detriment to nearby properties will result from granting the variances (4-0).

THIRD: That the Applicant has demonstrated that there are no other means by which he could achieve his purpose without the requested variance. (4-0)

FOURTH: That the variance is not substantial in light of the current conditions on the site. (2-2, Friesen and Knoebel dissenting)

FIFTH: That the hardship is not self-created. (2-2, Friesen and Berg dissenting)

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 consented.

- (1) The conditions and directives of the Architectural Review Board and Planning Board shall be followed;

On a roll call, the vote was as follows:

Ayes: 4

Nays: 0

Abstain: 0

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