

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

April 28, 2014

Present: Catherine Friesen, Chair
Robert Knoebel, Sr.
Roger Cohen (alternate)

In Memoriam:
Raymond O'Connell

Absent: John Dunnigan
Mary Ann Armano
Ellyse Berg

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

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

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In the Matter of the application of Susan Conry (10 Catherine Street) for an area from Article I VON Code 360-1.9E for the alteration or enlargement of a Building that is nonconforming with respect to the following Directional standards: minimum lot area of 4,750 sq/ft where 10,000 sq/ft is required; minimum lot width of 45 feet where 75 feet is required; minimum rear yard of 30 feet where 31.6 Feet is required

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The Zoning Board of Appeals held a public meeting on the 28th Day of April, 2014, 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: The Applicants 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 Jan Dagenstein, 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. Building Inspector's Plan Review Summary dated April 28, 2014,
6. Minutes of the ARB dated February 19, 2014 and March 19, 2014;
7. Letter from Roland Carenard (12 Catherine Street) to the ZBA and ARB dated March 7, 2014, in support of the application;
8. There was no testimony from any member of the public.

THIRD: The site in question is located in the TFR zoning district. The property owners acquired the property many years ago pursuant to the local zoning regulations.

FOURTH: The Applicants propose to construct a second story addition on their existing two family home which is currently nonconforming with respect to lot size (4,750 sq/ft where 10,000 sq/ft is required), minimum lot width (45 feet where 75 feet is required) and minimum rear yard (30 feet where 31.6 is required). The proposed addition does not increase or enlarge these nonconformities or create any new nonconformities.

FIFTH: The Nyack Planning Board and ARB have both issued positive recommendations to this Board in relation to the variance requests.

SIXTH: The applicant's neighbor, Roland Carenard, supports the application and believes that the proposed addition will fit nicely into the neighborhood.

SEVENTH: 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. (3-0)

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, 5 and 6. (3-0).

SECOND: That the Applicant has demonstrated that there are no other means by which she could achieve her 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. (3-0)

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. (3-0)

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. (3-0)

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. (3-0)

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;

On a roll call, the vote was as follows:

Ayes: 3 (Friesen, Knoebel, Cohen)
Nays: 0
Abstain: 0

Catherine H. Friesen

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