

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

May 19, 2014

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

In Memoriam:
Raymond O'Connell

Absent: Robert Knoebel, Sr.

The following resolution was offered by Member Berg, seconded by Member Armano, and carried based upon a review of the evidence presented at the public hearing held on May 19, 2014

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

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In the Matter of the application of Francesca Russo and Eugene Siniscalchi (296 North Midland Avenue) 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 dimensional standards:
minimum lot width of 46.86 feet where 50 feet is required.

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The Zoning Board of Appeals held a public meeting on the 19th Day of May, 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 the area variance 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 Francesca Russo, Architect and Applicant, and Eugene Siniscalchi, 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 May 19, 2014,
6. Minutes of the ARB dated March 19, 2014 and draft minutes of the ARB dated April 16, 2014;
7. Testimony from the following members of the public in support of the application: Maureen Schwartz and Jeffrey Schwartz (261 North Midland)

THIRD: The site in question is located in the TFR zoning district. The property owners acquired the property in approximately 2008 pursuant to the local zoning regulations.

FOURTH: The Applicants propose to demolish an existing garage and construct a two story structure on a property that is currently nonconforming with respect to minimum lot width (approximately 46.86 feet where 50 feet is required). The proposed construction does not increase or enlarge this nonconformity or create any new nonconformities.

FIFTH: The ARB approved the application and did not offer any comment on the variance. The Nyack Planning Board gave site plan approval and issued a positive recommendation in relation to the variance request.

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:

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 2, 4 and 5. (5-0).

SECOND: That the Applicants have demonstrated that there are no other means by which they could achieve their 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 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 paragraph 4 and 5. (5-0)

FOURTH: That 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 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 variance applied for should be GRANTED with the following conditions:

1. The directives of the Planning Board and Architectural Review Board are followed;
2. Proof of mailing shall be supplied to the Building Department by 5 pm on Tuesday, May 27th.

On a roll call, the vote was as follows:

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

Nays: 0

Abstain: 0

Catherine H. Friesen
CATHERINE H. FRIESEN, Chairperson

Zoning Board of Appeals, Nyack