

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

March 26, 2012

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

In Memoriam:
Raymond O'Connell

The following resolution was offered by Member Armano, seconded by Member Knoebel, and carried based upon a review of the evidence presented at the public hearing held on March 26, 2012

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

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In the Matter of the Application of Minozzi-Travis
Monuments, Inc. (231 Main Street) for an area variance
from VON Code Section 360-4.9(B)(a)(1) to permit the
installation of a front yard fence greater than 42" in height.
-----X

The Zoning Board of Appeals held a public meeting on March 26, 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 David Roberts, on behalf of the Applicant;

3. Positive recommendations of the Planning Board and the ARB for the grant of the variance;
4. There was no testimony from members of the public;
5. Site visits by members of the ZBA; and
6. ZBA members' knowledge of the site in question.

Third: The site in question is located in the DMU zoning district. The property is owned by Minozzi-Travis Monuments, Inc.

Fourth: The Applicant proposes to replace an existing 48" high chain-link fence that abuts the portions of its property running along Midland Avenue and Main Street with a new 48" high aluminum picket fence. The Code permits fences that are 42" in height. According to the Applicant, this 6" difference is not perceptible to the public, and the additional height provides security and protection for the property grounds which currently house delicate stone ornaments and gravestones.

Fifth: Both the Planning Board and the ARB offered positive recommendations to the ZBA with respect to the grant of the variance.

Findings of Fact 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. (5-0)

FOURTH: That the variance is not 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, to which the applicant has consented.

- (1) The conditions and directives of the Architectural Review Board and Planning Board shall be followed.
- (2) The Applicant shall provide proof of mailing to the Building Department by close of business tomorrow (March 27th).

On a roll call, the vote was as follows:

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

Nays: 0

Abstain: 0

Catherine Friesen

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