

**REGULAR MEETING  
ZONING BOARD OF APPEALS**

Nyack Village Hall  
Nyack, New York

January 27, 2014

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

**In Memoriam:**  
Raymond O'Connell

The following resolution was offered by Member Knoebel, seconded by Member Berg, and carried based upon a review of the evidence presented at the public hearing held on January 27, 2014.

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

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In the Matter of the application of Fred Weber and Nancy Blaker-Weber (23 First Avenue) for Area Variances from Article IV VON Code Section 360-4.3, Table 4-1, for the enlargement/horizontal extension of a building that is non-conforming with respect to the following dimensional standards: lot area of 3,600 square feet where 5,000 square feet are required; Minimum side yard of 0.3 feet where 5 feet is required; Rear yard of 17.58 feet where 27 feet is required; and 3 stories where 2 are permitted; and from Article I VON Code 360-1.9E for the increase in height of the south and west walls

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The Zoning Board of Appeals held a public meeting on the 27<sup>th</sup> Day of January, 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 Kier Levesque, Architect, on behalf of the Applicants;
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 December 2, 2013, and the Building Inspector's notes of the ARB meeting held on November 20, 2013;
6. Testimony of Roger Feldman (26 High Avenue) and Meryl Feldman (26 High Avenue).

**THIRD:** The site in question is located in the TFR zoning district and is in a view corridor. The property owners acquired the property in 1987 pursuant to the local zoning regulations.

**FOURTH:** The Applicants propose to construct a 50 square foot one story addition to the east of an existing kitchen and a 207 square foot second floor bedroom addition over an existing 1 story kitchen addition that has been in use since 1964. The existing house is nonconforming with respect to side yard setback and the proposed second floor addition will extend this nonconformity in a vertical direction, but not increase it horizontally. According to Mr. Levesque, given the architecture and location of the existing openings on the current building's south facing elevation, there is no feasible alternative to the placement of the second floor addition. The existing building is also nonconforming with respect to lot area, lot width and number of stories, and the proposed addition does not change these nonconformities. A variance was previously granted on March 25, 1991 for the location of an accessory shed on the property.

**FIFTH:** The Nyack Planning Board and ARB have both issued positive recommendations to this Board in relation to the variance requests. In making its recommendation, the Planning Board found that the proposed construction would not result in any significant impact on the neighborhood, or the sight lines of the neighbors, and that it appeared to constitute only a slight variance of the existing condition. The Planning Board further noted that the adjacent homes are all non-conforming with small side yards, and that the additions and porches in the rear line up.

**SIXTH:** The Applicants do not propose to replace the existing deck on the kitchen addition.

**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. (5-0)

### **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. (5-0).

**SECOND:** That the Applicant has demonstrated that there are no other means by which he could achieve his 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 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. (5-0)

**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. (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 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: 5 (Friesen, Knoebel, Armano, Berg, Dunnigan)

Nays: 0

Abstain: 0

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