

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

January 30, 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 Knoebel, seconded by Member Armano, and carried based upon a review of the evidence presented at the public hearing held on January 30, 2012.

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

-----X
In the Matter of the Application of Joseph Kandoth
(28 High Avenue) for an area variance from VON Code
Section 360-4.3, Dimensional Standards Table 4-1 for a
proposed FAR of .72 where 0.43 is permitted, and from
VON Code Section 360-4.3, Dimensional Standards
Table 4-1 and VON Code Section 360-1.9E for horizontal
extension of a building that is non-conforming with
respect to following dimensional and developmental
standards: (1) existing lot area of 3216 square feet where
where 5,000 square feet is required; (2) existing lot
width of 40 feet where 50 feet is required; (3) existing
front yard of 11.04 feet where 16.08 feet is required; (4)
existing side yard of 3.6 feet where 5 feet is required; and
(5) building height of 3 stories where 2 stories are permitted.

-----X
The Zoning Board of Appeals held a public meeting on the 30th Day of January, 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 variances 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 Joseph Kandoth, Applicant and architect;
3. Plans for prepared by JK Kandoth, Architect, dated August 28, 2011, and revised December 9, 2011;
4. Minutes of the Planning Board dated January 9, 2012;
5. Minutes of the ARB dated November 16, 2011;
6. Positive recommendation of the Planning Board and the ARB for the grant of the variances.¹
7. ZBA members knowledge of the site in question;
8. Site visits by all member of the ZBA;
9. Testimony from the members of the public in support of the application:
 - a. Carol Barrett
 - b. Roger Feldman

Third: The site in question is a located in the TFR zoning district and is in a designated view corridor. The owner of the property, Joseph Kandoth, purchased the property in 2001 pursuant to the local zoning regulations.

Fourth: The Applicant proposes to convert a two family residence to a one family residence, to construct a 1,543 square foot two story rear addition to the rear of the building, and to add several porches. The property is presently non-conforming with respect to its lot area (currently 3216 sq. ft. where 5000 sq. ft. is required); lot width (currently 40 feet where 50 feet is required); front yard setback (currently 11.4 feet where 16.08 feet is required); side yard setback (currently 3.6 feet where 5 feet is required); and building height (3 stories where 2 stories are permitted). The proposed addition does not increase any of these previously existing non-conformities, but will result in a FAR of 0.72 where 0.43 is permitted, and 0.49 is existing.

Fifth: When the applicant first appeared before the ARB in November, board members expressed concern about the number of variances required by the renovation, its proposed scale, and major alterations required to the front façade. After attending a workshop with the ARB, the

¹ A subsequent review of the ARB minutes dated December 21, 2011 (which were not available to the ZBA at the time of the public hearing in this matter) revealed that the ARB did not offer any recommendation to the ZBA whether the variances should be granted.

applicant submitted revised plans, which the ARB approved. Both the Planning Board and the ARB offered positive recommendations to the ZBA with respect to the grant of the variances.

Sixth: The proposed addition will not block the views of the adjacent neighbors. The neighbor to the immediate west is a commercial building with no functional windows along the east side. Two neighbors have testified in favor of the proposed renovations.

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

Findings of Fact moved and passed (5-0)

CONCLUSIONS OF LAW

The Zoning Board, upon oral motion, decided to consider the variances in an omnibus fashion.

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 variances do not create an undesirable change in the neighborhood, given the design of the addition and the overall design which will enhance the character of the neighborhood. (5-0)

SECOND: That no detriment to nearby properties will result from granting the variances. (5-0) .

THIRD: That the Applicants have demonstrated that there are no other means by which they could achieve their purpose without the requested variances. (5-0)

FOURTH: That the variances are substantial in light of the current conditions on the site. (5-0)

FIFTH: That the hardship is not 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, Planning Board and Village Engineer shall be followed;

On a roll call, the vote was as follows:

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

Nays: 0

Abstain: 0

Catherine Friesen

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