

**REGULAR MEETING  
ZONING BOARD OF APPEALS**

Nyack Village Hall  
Nyack, New York

June 24, 2013

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 June 24, 2013.

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

-----X  
In the Matter of the Application of Sakina Jeffrey and Frank Wilkinson (30 Fourth Avenue) for area variances from VON Code Section 360-4.3, (Dimensional Standards) Table 4-1 for a rear yard of 16.33 feet where 25.8 feet are required; a pre-existing front yard of 11.3 feet where 17.2 feet are required; a pre-existing side yard width of 4.4 feet where 6 feet are required; and a pre-existing building height of 2.5 stories where 2 stories are permitted  
-----X

The Zoning Board of Appeals held a public meeting on the 24th Day of June, 2013, 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:** Applicants Sakina Jeffrey and Frank Wilkinson 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 applicant;
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 June 3, 2103, and the Architectural Review Board dated May 15, 2013;
6. Building Inspector's Plan Review Summary dated June 24, 2013;
7. Letter from Judy and Brett DePalma to the ZBA dated June 10, 2013, expressing support for 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 and is in a view corridor. The Applicant purchased the property approximately 15 to 20 years ago pursuant to the local zoning regulations.

**FOURTH:** The Applicants propose to construct a 336 square foot one story addition to the rear of their single family dwelling to include a bathroom, exterior entry and deck. The existing dwelling is non-conforming with respect to building height, side yard size and front yard size, and the proposed construction will not change or increase these non-conformities. The proposed addition will create a non-conforming rear yard (16.33 feet, where 25.8 feet are required and 27.1 feet is existing).

**FIFTH:** The Nyack Planning Board has issued positive recommendations to this Board in relation to the variance requests. In making its recommendation, the Planning Board found that the characteristics of the proposed addition were reasonable in terms of "parking, screening, site lines and other Planning issues". The ARB has issued a positive recommendation to this Board in relation to the existing non-conformities requiring variances, and made no recommendation with respect to the rear yard variance.

**SIXTH:** Given the slope of the property and the way in which the addition has been designed, there will be no adverse impact to the views of the adjacent neighbors. The property to the rear has a large rear yard setback of approximately 40.1 feet and the owners of that property have submitted a letter indicating that they have no objection to the application. The design of the addition was changed at the request of the ARB to eliminate an extension of the side yard non-conformity.

**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 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. (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 rear yard variance is substantial in light of the current conditions on the site, but the variances for the existing non-conformities are not substantial. (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 variance applied for should be granted with the following condition:

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, Chair  
Zoning Board of Appeals, Nyack.