

**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 Berg, 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 Judy DePalma  
(37 Ackerman Place) for an area variance from VON Code  
Section 360-4.3, Dimensional Standards Table 4-1 and from  
VON Code Section 360-1.9E for alteration of a building  
that is nonconforming with respect to the following  
dimensional and developmental standards: (1) existing lot  
area of 4770 square feet where 10,000 square feet is  
required; (2) existing lot width of 60 feet where 75 feet  
is required; (3) existing lot depth of 75 feet where 100  
feet is required, and (4) existing front yard  
of 5.4 feet where 11.6 feet is required.

-----X  
The Zoning Board of Appeals held a public meeting on the 30<sup>th</sup> 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 Judy DePalma, Applicant;
3. Minutes of the Planning Board dated December 5, 2011;
4. Minutes of the ARB dated November 16, 2011;
5. Positive recommendation of the Planning Board and the ARB for the grant of the variances;
6. Site visits by all members of the ZBA and ZBA members knowledge of the site in question;
7. There was no testimony from the members of the public.

**Third:** The site in question is a located in the TFR zoning district. The owners of the property, W. Brett and Judy DePalma, purchased the property in 1996 pursuant to the local zoning regulations.

**Fourth:** The Applicant wishes to construct a second floor deck above an existing porch on the back of a two family home, which is presently non-conforming with respect to its front yard setback (currently 5.4 feet, where 11.6 feet is required); lot width (60 feet where 75 feet is required), lot depth (75 feet where 100 feet is required) and lot area (4770 square feet where 10,000 square feet is required). The deck, which is similar to other decks in the neighborhood, will not be visible from the street and does not affect the footprint of the home.

**Fifth:** The Planning Board and the ARB both offered positive recommendations to the ZBA with respect to the grant of the variances.

**Sixth:** 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. (5-0)

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

**THIRD:** That the Applicant has demonstrated that there are no other means by which she could achieve her purpose without the requested variances. (5-0)

**FOURTH:** That the variances are not 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 condition, to which the applicant has consented.

- (1) The conditions and directives of the Architectural Review Board and Planning Board 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.