

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

January 29, 2015

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

In Memoriam:
Raymond O'Connell

Absent: Robert Knoebel, Sr.

The following resolution was offered by Member Dunnigan, seconded by Member Cohen, and carried based upon a review of the evidence presented at the public hearing held on January 29, 2015.

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

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In the Matter of the application of Jeffrey Tognetti
(45 Route 59) for an area
variance from Article IV VON Code Section 360-4.3
Dimensional Standards Table
4-1 for a lot size of 7,133 square feet where 7,500
square feet is required and a rear yard of 5 feet where
25 feet is required

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The Zoning Board of Appeals held a public meeting on the 29th Day of January, 2015, 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 Applicant petitions the Zoning Board for area variance 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 John Atzel, Surveyor, on behalf of the Applicant;
3. ZBA members' knowledge of the site in question;
4. Site visits by all members of the ZBA;
5. Building Inspector's Plan Review Summary dated January 26, 2015;
6. Minutes of the ARB dated December 17, 2014;
7. Minutes of the Planning Board dated January 5, 2015
8. Letter from County of Rockland Department of Planning to the ZBA dated January 28, 2015;
9. Letter from County of Rockland Department of Planning to the Planning Board dated January 28, 2015;
10. There was no testimony from members of the public.

THIRD: The site in question is located in the CC zoning district. The Applicant purchased the property in 2014 pursuant to the local zoning regulations.

FOURTH: The Applicant proposes to demolish the existing structure on the property, which is in poor condition, and construct a new 2,464 square foot two-story office building toward the rear of the property in order to accommodate a parking lot in the front. The lot has sufficient on-site parking to support the proposed construction (10 parking spaces where 7 are required). The proposed construction will require area variances for the existing lot size, and for the rear yard. The proposed building will be separated from the commercial building to its rear by an existing parking lot on the adjacent property. The existing parking lot in the rear of the applicant's property could not accommodate sufficient parking for the proposed building, and presents substantial logistical challenges for drivers.

FIFTH: Both the ARB and the Nyack Planning Board issued positive recommendations to this Board in relation to the variance request. The ARB expressly considered the proposed siting of the building toward the rear of the property and requested that windows and plantings be considered in order to minimize visual impact to the adjacent properties. Both the ARB and the Planning Board approved demolition of the existing structure, but the site plan application for the proposed construction remains open.

SIXTH: THE Planning Board declared itself lead agency with respect to SEQRA for this type II action and the matter remains pending before it.

These Findings of Fact were moved and passed. (5-0)

CONCLUSIONS OF LAW:

Upon oral motion, the Zoning Board decided 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 variance does 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 and 5. (5-0).

SECOND: That the Applicant has demonstrated that there are no other means by which he could achieve his purpose without the requested variance. 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 variance is 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 variance 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 variance 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, Armano, Dunnigan, Berg, Cohen)

Nays: 0

Abstain: 0

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