

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

September 24, 2012

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

In Memoriam:
Raymond O'Connell

The following resolution was offered by Member Cohen, seconded by Member Berg, and carried based upon a review of the evidence presented at the public hearing held on September 24, 2012

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

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In the Matter of the Application of Catherine and
Jeffrey Friesen (85 5th Avenue) for an area variance
from VON § 360-4.9B (1)(a)(2) for a rear yard fence
height of 7' where 6'6" is permitted.
-----X

The Zoning Board of Appeals held a public meeting on September 24, 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 variance 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 Catherine Friesen, Applicant;
3. Positive recommendations of the Planning Board;

4. There was no testimony from members of the public;
5. Site visits by members of the ZBA; and
6. ZBA members' knowledge of the site in question.

Third: The site in question is located in the SFR-1 zoning district. The property is owned by the Applicants.

Fourth: The Applicants propose to install a 6' high board-on-board fence at a height of 1' off the ground (creating a 7' high fence) on their rear (western) property line. The Code permits fences that are 6'6" in height. According to the Applicant, this 6" difference will not be perceptible to the public because of the slope of the property, and the additional height provides screening from the BOCES parking lot and security lights recently installed on that property.

Fifth: The Planning Board offered a positive recommendation to the ZBA with respect to the grant of the variance.

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

CONCLUSIONS OF LAW

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 variance does not create an undesirable change in the neighborhood. (5-0)

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

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

FOURTH: That the variance is 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 conditions, to which the applicants have consented.

(1) The conditions and directives of the Planning Board shall be followed.

On a roll call, the vote was as follows:

Ayes: 5 (Armano, Dunnigan, Knoebel, Berg, Cohen)

Nays: 0

Abstain: 0

Recused: 1 (Friesen)

Mary Ann Armano

MARY ANN ARMANO, Acting Chair
Zoning Board of Appeals, Nyack