

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

January 28, 2013

Present: Catherine Friesen, Chair
John Dunnigan
Robert Knoebel, Sr.
Ellyse Berg
Roger Cohen (Alternate)

In Memoriam:
Raymond O'Connell

Absent: Mary Ann Armano

Adequate proof of notice having been received by the Building Department and no opposition to the application having been raised at the reopened public hearing held on January 28, 2013, Member Knoebel moved to adopt the resolution of the ZBA dated November 26, 2012 reproduced below with the amendments reflected therein. Seconded by Member Berg.

On a roll call, the vote was as follows:

Ayes: 4 (Friesen, Knoebel, Dunnigan, Berg)

Nays: 0

Abstain: 1 (Cohen)

Catherine Friesen

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

**REGULAR MEETING
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November 26, 2012

Present: Catherine Friesen, Chair
John Dunnigan
Robert Knoebel, Sr.
Mary Ann Armano
Ellyse Berg

In Memoriam:
Raymond O'Connell

Absent: Roger Cohen (alternate)

The following resolution was offered by Member Armano, seconded by Member Knoebel, and carried based upon a review of the evidence presented at the public hearing held on November 26, 2012.

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

-----X
In the Matter of the Application of Terry Plank
(91 Piermont Avenue) for area variances from
VON Code Section 360-1.9E for the
alteration, enlargement and horizontal extension
of a building that is non-conforming with respect to the
following dimensional and development standards:
lot area of 3,510 sq. ft. where 5,000 square feet are
required, lot width of 26.6 feet where 50 feet is required;
minimum side yard of -1 feet where 5 feet is required, and a
dwelling size of 897 sq. feet where 900 sq. feet is required;
and from VON Code Section 360-4.3, (Dimensional Standards)
Table 4-1 for a rear yard of 35'7" feet where 39'8" is required.
-----X

The Zoning Board of Appeals held a public meeting on the 26th Day of November, 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 Terry Planck petitions 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, including a letter from Kier Levesque, Architect, dated November 7, 2012;
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 November 5, 2012 and draft notes of the Architectural Review Board meeting held on October 17, 2012;¹
6. Building Inspector's Plan Review Summary dated November 26, 2012; and
7. There was no testimony from members of the public.

THIRD: The site in question is located in the TFR zoning district. The Applicant purchased the property approximately 1½ to 2 years ago pursuant to the local zoning regulations.

FOURTH: The Applicant proposes to replace and enlarge a deck on the rear (east side) of the narrow, sloping, irregularly shaped property which is situated adjacent to the Hudson River. According to Mr. Levesque, the unique features of the lot and the location of the dwelling preclude any feasible alternatives to seeking a variance for the rear lot size, and neighbors have similar conditions and decks. The proposed deck, which will be 309 square feet, will not obstruct the views of adjacent neighbors.

FIFTH: The Nyack Planning Board has issued a positive recommendation to this Board in relation to the variance requests which it found to be minimal in a preexisting, nonconforming lot and in keeping with the character of the neighborhood. The ARB also issued a positive recommendation 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.

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

CONCLUSIONS OF LAW:

After discussion, the ZBA agreed that the individual variances will be deliberated upon 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)

¹ The minutes of the October 17th ARB meeting had not yet been transcribed at the time of the November 26, 2102 ZBA meeting. They had been received at the time of the meeting held on January 28, 2013.

FOURTH: That the variances are not substantial in light of the current conditions on the site.
(5-0)

FIFTH: That, on balance, 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 variances applied for should be GRANTED with the following conditions:

1. The directives of the Planning Board and Architectural Review Board are followed.
2. The Applicant must submit certificates of mailing to the Building Department by Friday, November 30, 2012.²

On a roll call, the vote was as follows:

Ayes: 5

Nays: 0

Abstain: 0

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

²Adequate proof of mailing was received prior to the reopened January 28, 2103 public hearing and this condition is no longer relevant.