

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

May 20, 2013

Present: Catherine H. Friesen, Chair
Mary Ann Armano
John Dunnigan
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 Friesen, and carried based upon a review of the evidence presented at the public hearing held on May 20, 2013.

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

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In the Matter of the application of Damon Finch
(169 Main Street) for a special permit in accord with
VON Code Section 360-5.9, Table 3.1 (Table of
Permitted Uses) for a Specialized School in the DMU zone

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The Zoning Board of Appeals held a public meeting on the 20th Day of May, 2013 and due deliberations having been made on 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, Damon Finch, petitions the Zoning Board of Appeals for the special permit 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. Testimony of Damon Finch, Applicant;
3. ZBA members knowledge of the site in question, including site visits by all members of the ZBA;
4. There was no testimony from members of the public.

THIRD: The site in question is located in the DMU zoning district, and is owned by Gisondi Family Partnerships, Ltd. Damon Finch, the Applicant, intends to lease the property and has the permission of the owner to make this application.

FOURTH: The Applicant is the owner of Damon Finch Power Sessions Career Development Institute which specializes in public safety training and currently has offices in New Windsor and Kingston, New York. The Applicant is seeking to open a branch in Nyack which will offer rental space for audio and video recording, as well as various seminars and classes for adults.

FIFTH: The space in which the Applicant proposes to place his school is approximately 2,500 square feet, and would require 9 parking spaces given its size and the intended use. The current parking requirements for the existing use would be six parking spaces. In order to overcome this deficit and provide adequate off-street parking, the owner of the property is offering to supply six dedicated parking spaces in his adjacent lot located at Burd, Mill and North Main Street. The parking spots will be marked with numbered parking plaques indicating that they are reserved for the use of the school's staff. Given the availability of the six dedicated parking spaces in the adjacent lot, the Building Inspector has determined that the parking requirements have been met.

SIXTH: No use-specific standards apply to the application.

The above Findings were moved and passed. (5-0)

CONCLUSIONS OF LAW:

As to the application for Special Permit, the Zoning Board of Appeals has considered the factors set forth in VON Code 360-5.9C and makes the following Conclusions of Law:

FIRST: That the applicant has shown that all proposed structures, equipment and material will be readily accessible for fire and police protection.

SECOND: That the applicant has shown that the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.

THIRD: The applicant has shown that the location and size of such use, the nature

and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to or incongruous with said district or conflict with the normal traffic of the neighborhood.

FOURTH: The applicant has shown that the location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

FIFTH: No use-specific standards are relevant to the application.

The Board has weighed the findings of fact and the conclusions of law as required under VON Code Section VON Code 360-5.9C *et. seq.* and finds in the interest of justice that the Special Permits should be GRANTED with the following conditions:

1. That all applicable regulations and laws be fully complied with prior to the issuance of the Special Permit;
2. An employee of Mr. Finch will be on site at all times that the business is in operation;
3. Prior to the issuance of the special permit, the Applicant will submit a letter from the owner of the premises memorializing the owner's consent to the application and dedicating the parking spaces on the adjacent lot as described herein.

On a roll call, the vote was as follows:

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

Nays: 0

Abstain: 0

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