

**VILLAGE OF SOUTH NYACK**  
**Zoning Board of Appeals Minutes**  
**January 6, 2015**

**PRESENT:**

Roger Seiler – Chairman  
Richard Holt - Member  
Bruce Forrest – Member  
Charles Cross - Member  
Frank Richards – Alternate Member

**ALSO PRESENT:**

Robert Knoebel – Attorney for Zoning Board  
David Majewski – Building Inspector  
Denise Weber-Mishkel – ZBA Secretary

**Mr. Seiler** called the meeting to order at 7:30 pm, states that meeting was noticed on December 29, 2014.  
There are two cases before the Board:

- An appeal by Susannah Dabney for variances from Article XI, Section 110-11.1, Nonconforming Building and Uses and Table of Use and Bulk Requirements, Schedule 1, Page 2 of the Zoning Law of the Village of South Nyack for minimum street frontage, front yard setback, side yard setback and total side yard. The premise, an existing single family dwelling, is located at 52 Glen Byron, South Nyack, NY 10960 and identified on the Tax Map as Section 66.70-2-25. Located in an R12 Zoning District.
- An appeal by Mark Mishebow and Raymond Schwarz for variances from Article XI, Section 110-11.1, Nonconforming Building and Uses and Table of Use and Bulk Requirements, Schedule 1, Page 2 of the Zoning Law of the Village of South Nyack for a subdivision and land conveyance. The variances sought are for lot 66-69-1-10: minimum lot area, front yard setback, rear yard setback, and off street parking; and for lot 66-69-1-11: minimum lot area, street frontage, side yard setback, total side yard and lot coverage. The properties are located at 3A & 3B Shadyside Avenue, South Nyack, NY 10960 and identified on the Tax Map as Sections 66.69-1-10 & 11, located in an RG8H Zoning District.

**Case #1: 52 Glen Byron**

**Appearing: Susannah & John Dabney, Homeowners**

**Mrs. Dabney** describes the project which involves adding a two story addition, an enlargement of the kitchen, master bedroom and bath. They are requesting four variances: minimum street frontage, front yard setback, side yard setback and total side yard. Addresses the 7 criteria in her letter dated 12/22/14.

**Mr. Seiler** questions the location of the AC. Does not believe this is the best location as it is too close the neighbor's house. There is adequate room in the back of the house.

**Mr. Dabney** explains that their intention is to remove the 20x20 deck that is currently there, placing the AC unit close to the house, thereby decreasing the non-conformity. Agrees that mechanically this can be done but it would not be as aesthetically pleasing nor would it allow them to use the back yard as planned with their children.

**Mr. Cross** mentions that the proposed location is visible from the street, suggests behind the garage.

**Mr. Forrest** questions whether the sound requirements will be met at the property line with the AC unit in its current location.

**Mr. Seiler** states that putting the unit in this location does not meet the sideyard requirements or the 50 DCB sound limits at the property line. Other options are available which meet the requirements. If the AC was removed from the plans or moved to the back yard, no variance would be needed.

**Mr. Bill Loftus** – 53 Glen Byron supported the plans

**Mr. Gino Silvestri** – 285 Piermont Avenue liked the plans.

**Mr. Holt** makes a motion to close the public hearing

**Mr. Forrest** seconds

**Board Vote:**

<b>Mr. Seiler</b>	Aye
<b>Mr. Holt</b>	Aye
<b>Mr. Cross</b>	Aye
<b>Mr. Forrest</b>	Aye
<b>Mr. Richards</b>	Aye
<b>Motion approved</b>	<b>5-0</b>

**Case #2:** 3A & 3B Shadyside Avenue, Mark Mishebow & Raymond Schwarz

**Appearing:** John Atzl of Atzl, Nasher & Zigler, Engineer/Surveyor  
 Mark Mishebow, Homeowner 3A Shadyside Avenue  
 Raymond Schwarz, Homeowner 3B Shadyside Avenue

**Mr. Atzl** describes the project which involves a subdivision and lot line change. The Mishebow’s are conveying a 20 foot piece of property to the Schwarz’s. Reviews his letter of November 26, 2014 describing the existing non-conforming conditions and how this conveyance will bring the properties more into compliance, addresses the 7 criteria for the variances.

**Mr. Knoebel** notes that this plan was before the planning board and part of the approval included adding the following notes to the plan, which they have done:

- address the parking
- reference previous variance granted

**There were no comments from the board.**

**There were no objections from the public.**

**Mr. Holt** makes a motion to close the public hearing

**Mr. Forrest** seconds

**Board Vote:**

<b>Mr. Seiler</b>	Aye
<b>Mr. Holt</b>	Aye
<b>Mr. Cross</b>	Aye
<b>Mr. Forrest</b>	Aye

Mr. Richards Aye  
Motion approved 5-0

**Deliberations:**

**Case #1: 52 Glen Byron**

Mr. Seiler states the finding of facts:

- Applicant has clarified that they are removing the AC from the plans
- Based on the applicant’s condition to removal of the AC from the plan, the board does not take issue with the response to 2 of the criteria – B & C as the benefit can be achieved by other means.
- There is no real impact to the properties on the side and the rear
- In the balancing of benefits, the benefits to the applicant are greater if granted than to the community if denied.

Mr. Cross makes a motion to grant the requested variances by Susannah Dabney, 52 Glen Byron, based on the site plans by Meg Fowler dated 11/20/14 and revised 12/22/14. Variances granted are: for minimum street frontage, front yard setback, side yard setback and total side yard provided that the applicant removes the AC unit from the plans. The premise, an existing single family dwelling, is located at 52 Glen Byron, South Nyack, NY 10960 and identified on the Tax Map as Section 66.70-2-25 and located in an R12 Zoning District. This is a Type 2 SEQRA declaration with no negative environmental impact.

Mr. Holt seconded

**Board Vote:**

Mr. Seiler Aye  
Mr. Graham Aye  
Mr. Holt Aye  
Mr. Forrest Aye  
Mr. Richards Aye  
Motion approved 5-0

**Deliberations:**

**Case #2: 3A & 3B Shadyside Avenue**

Mr. Seiler states the finding of facts:

- The applicants have clearly addressed and met all of the criteria
- In the balancing of benefits, the benefits to the applicants are greater if granted than to the community if denied.

Mr. Forrest makes a motion to grant the requested variances to Mark Mishebow & Raymond Schwarz, 3A & 3B Shadyside Avenue for subdivision and lot line change based on the subdivision plat by Atzl, Nasher & Zigler dated 7/29/14 and revised 11/24/14. The variances sought are for lot 66-69-1-10: minimum lot area, front yard setback, rear yard setback, and off street parking; and for lot 66-69-1-11: minimum lot area, street frontage, side yard setback, total side yard and lot coverage. The properties are located at 3A & 3B Shadyside Avenue, South Nyack, NY 10960 and identified on the Tax Map as Sections 66.69-1-10 & 11, located in an RG8H Zoning District. This is a Type 2 SEQRA declaration with no negative environmental impact.

Mr. Cross seconded

**Board Vote:**

**Mr. Seiler**                    Aye  
**Mr. Graham**                 Aye  
**Mr. Holt**                      Aye  
**Mr. Forrest**                 Aye  
**Mr. Richards**               Aye  
**Motion approved**         5-0

Mr. Holt makes a motion to approve the minutes from 11/5/14.

Mr. Forrest seconded

**Board Vote:**

**Mr. Seiler**                    Aye  
**Mr. Forrest**                 Aye  
**Mr. Richards**               Aye  
**Mr. Holt**                      Aye  
**Motion approved**         4-0

There will be no meeting in February

Mr. Forrest makes a motion to adjourn.

Mr. Holt seconds

**Board Vote:**

**Mr. Seiler**                    Aye  
**Mr. Graham**                 Aye  
**Mr. Holt**                      Aye  
**Mr. Forrest**                 Aye  
**Mr. Richards**               Aye  
**Motion approved**         5-0

Meeting adjourned at 8:30 pm.

Respectfully submitted,

Denise Weber-Mishkel  
Zoning Board Secretary

Approved: \_\_\_\_\_