

**VILLAGE OF SOUTH NYACK**  
**Zoning Board of Appeals Minutes**  
**January 5, 2016**

**PRESENT:** Roger Seiler – Chairman  
Charles Cross – Member  
Bruce Forrest – Member  
Frank Richards – Member

**ALSO PRESENT:** David Majewski – Building Inspector  
Sokuna Mam – ZBA Secretary  
Robert Knoebel – Attorney for Zoning Board

**ABSENT:** DeWitt Rulon - Alternate Member  
Richard Holt - Member

**Mr. Seiler** called the meeting to order at 7:30 pm. There were three items on the agenda. The Public Hearing was noticed on December 30, 2015 in the Journal News.

- An appeal by Malachy Kelly & Melissa Kelly for a variance 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 variances to permit minimum side yard , and total sideyard setback. The premises are a one family dwelling located at 1A Elizabeth Place, South Nyack, NY 10960 and is identified on the Tax Map as Section 66.77-1-10, and is located in a RG-4 Zoning District.
- An appeal by David Scharf on behalf of Natalia Dochim for a variance 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 variance to permit minimum front yard setback. The premises are a one family dwelling, is located at 20 Terrace Drive, South Nyack, NY 10960 and identified on the Tax Map as Section Block and Lot 65.60-1-12, located in an R-8H Zoning District.
- An appeal by Walter Aurell on behalf of Salisbury Point Cooperative for a variance from Article XI, Section 110-11.1, Nonconforming Building and Uses and Table of Use and Bulk Requirements, Schedule 1, Page 4 of the Zoning Law of the Village of South Nyack to modify lower parking entrance and provide two control gates. The premises are a multi-family dwelling located at 4 Salisbury Point, South Nyack, NY 10960 and is identified on the Tax Map as Section 66.78-1-27, and is located in a HRA Zoning District.

**Case # 1: 1A Elizabeth Pl., South Nyack, NY 10960**

**Appearing: Malachy Kelly, Owner**

Mr. Kelly proposed an approval for an addition to rear of the house and for variances for sideyard, total sideyard setbacks. The applicant requested an upgrade to the house to be more suitable level with the neighborhood on Elizabeth Place. The area variance is feasible. The house is an existing non-conforming use. The non-linear lot creates hardship in meeting sideyard and total sideyard setbacks. The applicant proposed area variances for an addition 1 1/2 ft. from the back of the house and 2 1/2 ft. from the back of the deck. There's no adverse effect to the environment.

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

**Mr. Cross** moved to close public hearing.

**Mr. Richards** seconded.

**Board Vote:**

**Mr. Seiler**                      **Aye**

**Mr. Forrest**                    **Aye**

**Mr. Richards**                 **Aye**

**Mr. Cross**                      **Aye**

**Motion approved**          **4-0**

Now, upon said hearing and upon the evidence adduced thereat, it is hereby found and determined that:

**FINDINGS OF FACTS**

**Mr. Seiler** noted the finding of facts:

- The criteria for the variances have been addressed.
- The extension and wooden deck to remain at 10ft. away from accessory structures from other properties.
- There will be no undesirable change.
- The change won't change character of neighborhood.
- There will not be a negative impact on adjoining properties.
- The change of the footprint is not substantial.
- This lot has a pre-existing non-conformity.
- In the balancing of the benefits, there is a greater benefit to the applicant if the variances are granted than to the village if they are denied.

**Mr. Forrest** made a motion to grant variances to Malachy Kelly & Melissa Kelly to permit east side yard, and combine sideyard setback. The premises are a one family dwelling located at 1A Elizabeth Place, South Nyack, NY 10960 and is identified on the Tax Map as Section 66.77-1-10, and is located in a RG-4 Zoning District. This is a Type 2 SEQRA action with no negative environmental impact.

**Mr. Cross Seconded**

**Board Vote:**

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

**Case # 2: 20 Terrace Dr., South Nyack, NY 10960**

**Appearing: David Scharf, Contractor**

**Mr. Scharf** is seeking a variance to permit minimum front yard setback for construction of a new covered porte-cochère at the front entry.

**There are no members of the public present.**

**Mr. Cross** moved to close public hearing.

**Mr. Forrest** seconded.

**Board Vote:**

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

Now, upon said hearing and upon the evidence adduced thereat, it is hereby found and determined that:

**FINDINGS OF FACTS**

**Mr. Seiler** noted the finding of facts:

- The criteria for the variances have been addressed.
- There will not be a negative impact on adjoining properties
- In the balancing of the benefits, there is a greater benefit to the applicant if the variances are granted than to the village if they are denied.
- There will be no undesirable change.
- The change won't change character of neighborhood.
- The change of the footprint is not substantial.
- This lot has a pre-existing non-conformity.

**Mr. Cross** made a motion to grant a variance to permit minimum front yard setback. The premises are a one family dwelling, is located at 20 Terrace Drive, South Nyack, NY 10960 and identified on the Tax Map as Section Block and Lot 65.60-1-12, located in an R-8H Zoning District. This is a Type 2 SEQRA action with no negative environmental impact.

**Mr. Forrest** seconded.

**Board Vote:**

**ZBA 1/5/2016**

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

**Case # 3: 4 Salisbury Pt., South Nyack, NY 10960**

**Appearing: Walter Aurell, Architect**

**Mr. Aurell** is seeking a variance to modify the lower parking entrance and to provide two control gates. The applicant is requesting curb of driveway aisle width as 28', because planning board recommended width as 24'. Fire Chief will receive three keys for the gates in case of emergencies. Mr. Aurell has requested a updated letter from County of Highway Department for resolutions of conditions.

**Mr. Seiler** required documents by quoting Article XIII 110-13.2 B ii from the Village Code the board consider whether the benefit sought by the application can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

The following conditions:

- Suggestion: Extend access to pave area to provide parking spaces that will be eliminated
- Provide documents how's the proposal is feasible
- Provide statements from Traffic Engineer or professional documentation
- Mark and add notes to clarify on existing plans

**Mr. Forrest** made a motion to continue the public hearing the application by Walter Aurell on behalf of Salisbury Point Cooperative for modifying the lower parking entrance and adding control gates and set a date February 2, 2016 the continuation of the Public Hearing.

**Mr. Richards** seconded.

**Board Vote:**

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

**OLD BUSINESS:**

**Mr. Forrest:**    Moved to approve October 6, 2015 Zoning Board of Appeals amended minutes.

**Mr. Richards:** Seconded

**Board Vote:**

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

**Meeting adjourned 9:00PM**

**The next meeting is on February 2, 2016.**

Respectfully submitted,

Sokuna Mam  
Zoning Board Secretary

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