

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

PRESENT: Roger Seiler – Chairman
Charles Cross – Member
Bruce Forrest – Member
Frank Richards – Member
DeWitt Rulon - Alternate Member

ALSO PRESENT: Sokuna Mam – ZBA Secretary
Robert Knoebel – Attorney for Zoning Board

ABSENT: Richard Holt – Member

Mr. Seiler called the meeting to order at 7:31 pm. This meeting was noticed to the public on March 29, 2016. There was one item on the agenda.

An application by Kier Levesque on behalf Monisoff residence for a front yard variance from Article V, District Use Area and Bulk Regulations Section 110-5A Schedules of Restrictions and Controls and Uses and Table of Use and Bulk Requirements, Schedule 1, Page 2 of the Zoning Law of the Village of South Nyack to permit the construction of a one (1) story addition to the south and a second floor addition to the north of the property. The premise, a one family dwelling, is located at 2 Gesner Ave., South Nyack, NY 10960 and identified on the Tax Map as Section Block and Lot 66.62-2-28, and is located in an R-12 Zoning District.

Case # 1: 2 Gesner Ave., South Nyack, NY 10960
Appearing: Kier Levesque, Architect

Kier Levesque, Architect was referred from Planning Board to go the Zoning Board of Appeals for front yard variance. Due to the damage from Hurricane Sandy, the basement of the house was flooded out. FEMA issued Based Flood Elevation 7ft. for the entire area. The lowest ground touching the house must be at or above the Base Flood Elevation (BFE) for the structure to be outside the Special Flood Hazard Area. The basement based on elevation 3.9ft, but the first floor is 12ft. the based on first floor elevation that met state code. A letter of Map Amendment was issued and the applicant received a portion of the funds for the lower level of the house. After FEMA reviewed this letter of map amendment, 30% +/- of the property is in the 100- year flood zone.

The New York Rising Program offers two methods to receive funds.

1. Elevate the home
2. Repair or reconstruct house.

FEMA wanted the property owner to elevate the house; using stilts, but financially they cannot use this option. The money received was for elevation and reconstruction. The first floor is to be abandoned. The old windows and doors will be removed, so water can go in and out. The owner has to meet the requirement of below flood elevation for building materials. The plan is to plaster the under siding of the existing floor so no moisture can penetrate through it. Electrical systems were raised up. In order to recoup lost sq. ft. it is proposed to add a 2nd level on north end, add a first floor addition to the south and west side of the house. The front yard has a wide planted buffer and the village tree will remain untouched.

Hardship:

- The owner lost 1500-1800ft living spaces in the lowest level of the house because it cannot be used.
- Recoup almost all living space such family room, library, mechanical spaces.
- Moving kitchen in to new space
- Add 2nd fl bathroom/bedroom.
- Basement sealed off
- Planning Board required elevation location of air conditioner and generator to conform to flood plain regulations.

Zoning Board of Appeals' discussion and comments included:

Mr. Seiler commented flat roof proposed additional 3ft parapet may impact neighbor's view.

Mr. Knoebel commented that at the planning board, current owner and potential residents commented that roof would not affect their view.

There was a discussion about the roof and blocking views. **Mr. Levesque** commented that on the north side, the existing parapet wall will have new flashing and coping to match new construction. The proposed parapet wall will be part of the new additions at rear of house.

Mr. Seiler expressed concern about pitch of roof being 3ft in height.

Mr. Knoebel explained that the height of a building should be measured from the average elevation of the proposed finished grade or the existing grade on all sides of the building, whichever is lower, to the highest point of the roof. A flat roof is 30ft and any other type of roof is 36ft.

Mr. Cross commented that the height is permissible despite the potential impact on the view of the river.

There was a discussion about the air conditioner including setback, location, village noise ordinance. The unit will be 28ft away from the home, required distance is 15ft.

There was a discussion about the noise ordinance. **Mr. Forrest** commented that the noise is linear. There are bushes and trees. Front yard variance is significant.

Mr. Forrest used an example of 137 Piermont has a short front yard setback.

Mr. Seiler commented that this property has often flooded several times.

Robert Knoebel comments included:

- There was a discussion at the February 17, 2016 Planning Board meeting regarding the additions to the house. The current owner and potential buyers were asking questions which were clarified. The homeowner had considered neighbors' views.
- Village Engineer plan review stated that the site is adjacent to the Hudson River and within a flood zone the minor increase in roof runoff can be addressed by the existing yard drains on site.
- **Mr. Knoebel** explained that the height of a building should be measured from the average elevation of the proposed finished grade or the existing grade on all sides of the building, whichever is lower, to the highest point of the roof. A flat roof is 30ft and any other type of roof is 36ft.

Mr. Levesque commented that the bulk table is correct. He does not agree with Rockland County Department of Planning's discrepancies.

There was a discussion about total lot area and is not an issue.

Mr. Richards was concerned about the impervious surface.

Mr. Knoebel explained that the impervious surfaces related to the proposed addition will have drainage systems connected to the existing system.

There are no members of the public present.

There are no members of the Building Department present.

Mr. Forrest made a motion to close the public hearing

Mr. Cross seconded

Board Vote:

Mr. Seiler	Aye
Mr. Cross	Aye
Mr. Forrest	Aye
Mr. Richards	Aye
Mr. Rulon	Aye
Motion approved	5-0

Public hearing closed 7:56pm

Mr. Seiler commented that this project is for local determination and that this property has flooded several times.

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

FINDINGS OF FACTS

Mr. Seiler noted:

- Proposed new floor area is less than 50% of existing area.
- Flood plain: confirmation FEMA is providing funds.
- Construction will solve flood problem, and applicant is providing with necessary requirements.
- Front yard has a wide planted buffer village property will remain untouched.
- Rear yard is noncompliance de minimis.
- Height complies with Village Code.
- 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 Kier Levesque on behalf Monisoff residence to permit the construction of a one (1) story addition to the south and a second floor addition to the north of the property. The motion is to grant approval for the application, and for a front yard variance. The premise, a one family dwelling, is located at 2 Gesner Ave., South Nyack, NY 10960 and identified on the Tax Map as Section Block and Lot 66.62-2-28 located in an R-12 Zoning District. This is a Type 2 SEQRA action with no negative environmental impact.

Mr. Cross Seconded

Board Vote:

Mr. Seiler	Aye
Mr. Cross	Aye
Mr. Forrest	Aye
Mr. Richards	Aye
Mr. Rulon	Aye
Motion approved	5-0

OLD BUSINESS:

Mr. Forrest: Moved to approve February 2, 2016 Zoning Board of Appeals amended minutes.

Mr. Richards: Seconded

Board Vote:

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

Upon motion made by Mr. Cross, seconded by Mr. Forrest, and unanimously approved, the meeting adjourned at 8:15pm.

The next meeting is June 7, 2016

Respectfully submitted,

Sokuna Mam
Zoning Board Secretary

Approved: _____