

VILLAGE OF SOUTH NYACK
Zoning Board of Appeals Minutes
June 7, 2016

PRESENT: Roger Seiler – Chairman
Bruce Forrest – Member
Frank Richards – Member

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

ABSENT: Richard Holt – Member
Charles Cross – Member
DeWitt Rulon - Alternate Member

Mr. Seiler called the meeting to order at 7:31 pm. This meeting was noticed to the public on June 2, 2016. There was one item on the agenda.

An application by Chaim Gubitz, 2 Salisbury Place, South Nyack, New York 10960 for an interpretation of Zoning Ordinance to determine the proper zoning district and bulk requirements applicable to the premises; and, for area variances from the requirements of Article XI, Section 110-11.1A (1), Non-Conforming Buildings and Uses, and the Table of Uses and Bulk Requirements of the Zoning Law of the Village of South Nyack, for side yard and total side yard to permit the construction of a carport. The premises, a one family dwelling, is located at 2 Salisbury Pl., South Nyack, NY 10960 and identified on the Tax Map as S/B/L 66.78-1-26, and is located in an HRA Zoning District.

Case # 1: 2 Salisbury Place, Nyack, NY 10960
Appearing: Jan Degenshein, Architect

Jan Degenshein, Architect was referred from Planning Board to go to Zoning Board of Appeals for interpretation of the Zoning Ordinance to determine the proper zoning district and bulk requirements applicable to the premise. The current zoning map indicates this property as an HRA zone but it's a misprint on the zoning map. The Planning Board was uncomfortable to review the application and referred the applicant to go to Zoning Board for interpretation.

Mr. Seiler commented that the Planning Board chairperson found discrepancies on the zoning map which included this property. There were numerous properties that needed to be corrected on the zoning map. The Zoning Board recommended the Board of Trustees to request that the county makes corrections.

There was a discussion about S & R Development Estates, LLC v Feiner (2015 WL 5945114 case.) **Mr. Forrest** commented that in this case, the Town of Greenburgh amended the official zoning map without notice and a public hearing as required under Town Law § 264 (1) and 265(1).

There was a discussion about the procedure that needs to be followed to have the zoning map corrected.

There was a discussion regarding the zoning interpretation of this particular property and/or to make a decision regarding the requested variances.

Mr. Seiler referred Zoning Code §110-3 INTERPRETATION

A. INTERPRETATION. The Board of Appeals may, on appeal from an order, requirement, decision, determination or interpretation made by the administrative official charged with the enforcement of this local law, or upon referral by any official, board or agency of the Village, decide any of the following questions:

1. Determination of the meaning of any portion of the text of this local law or of any condition or requirement specified or made under the provisions of this local law.
2. Determination of the exact location of any district boundary shown on the Zoning Map.

Mr. Degenshein commented as per Planning Board required to remove garage from site plan if it's not proposed. There are issues in regards to putting curbs on Salisbury Point and it affects this property. The determination of the zone will not affect the application. The applicants hopes to have a curb cut made when the curb is put in place.

Mr. Knoebel noted that the reason why this applicant appeared in front of the board was because the Building Inspector noticed an error on the map and that this property should be in an R-12.

Mr. Degenshein commented as per Planning Board he was required to remove garage from the site plan if it's not proposed. There are issues in regards to installing up curbs at Salisbury Point and it affects this property. According to Jim Johnson, DPW superintend, it'll take five years for a curb cut to be allowed. The determination of the zone will not affect the application. The applicant hopes to have a curb cut made when the curb is put in place.

Mr. Seiler commented that there's no need for variances for driveway.

Mr. Richards said according to local law, Zoning Board must review applicant for interpretation. Rockland County Dept. of Planning stated for any lot that is currently non-compliant with the yard requirements, even if the proposed new action does not extend the non-conformity. Applicant must go before zoning board. The side yards are currently non-complaint therefore Zoning Board must review application.

Mr. Seiler commented on the local law for a single family requirement is two parking spaces.

Mr. Forrest quoted §110-10.1 (J) SCREENING. Where permitted off-street parking areas abut or lie within twenty-five (25) feet of street or property lines, landscaped shrubbery of a minimum height of four feet and a width of three feet shall be provided.

Mr. Forrest commented the Zoning Local Law does not mention about curb driveway in front yard.

The new driveway is already built and but they still need to appear in front of the boards for permission.

There was a discussion that the existing property is in non-conforming use.

Mr. Degenshein addressed the criteria:

1. There is no undesirable change that will be produced in the character of the neighborhood nor a detriment created to nearby properties. It'll be an easier flow of traffic. The landscaping will improve the front yard of the property.
2. The benefit sought by the applicant cannot be achieved by another method feasible for the applicant to pursue, other than an area variance. There is no requested variance. The property is a nonconforming use therefore any changes of the site must go in front of the Zoning Board.
3. The requested variance is not substantial is not applicable to this application. The amount of area being converted to gravel is preamble surface.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property is barely visible from the street. There is no visual impact and there is no storm-water runoff. The driveway is positive traffic.
5. There is no effect of any increased population density which might be produced upon available services. This is not applicable to this property.

Mr. Siler reviewed Village Engineer plan review that the dimension from the gravel driveway to the lot line has not been noted. The driveway appears to be an encroachment into the neighbor's property.

Mr. Degenshein responded it does not encroach on neighbor's property. The surveyor actually reviewed the property.

Mr. Knoebel commented that the above plan review is no longer applicable.

There were no comments from the public.

There were no members of the Building Department present.

Mr. Forrest made a motion to close the public hearing

Mr. Richards seconded

Board Vote:

Mr. Seiler	Aye
Mr. Forrest	Aye
Mr. Richards	Aye
Motion approved	3-0

Public hearing closed 8:07pm

FINDINGS OF FACTS

Mr. Knoebel noted:

1. For the Interpretation of the zoning map, **§110-13.2 A (2) INTERPRETATION**. Zoning Board has authority to determine of the exact location of any district boundary shown on the Zoning Map. HRA boundary should properly be on the south side of this property instead of the north side based upon the board’s analysis of the factors and the evidence of the record. The board members determined this property is in R-12 zoning district.
2. For parking variances, **§110-10.1 (D) OFF-STREET PARKING REQUIREMENTS**. Two parking spaces are required for single family residential dwelling. No off-street parking is permitted within a required front yard, except on a driveway. There is no parking variance required.
3. No variances necessary required **except** the change in bulk to a property is nonconforming in bulk.
4. Type 2 SEQRA action with no negative environmental impact.

Mr. Forrest made a motion that no variance required the establishment of a circular driveway. It was determined by 2 Salisbury Pl to be situated in R-12 zone district. The premises, a one family dwelling, is located at 2 Salisbury Pl., South Nyack, NY 10960 and identified on the Tax Map as S/B/L 66.78-1-26, and is located in an R-12 Zoning District. This is a Type 2 SEQRA action with no potential for negative environmental impact.

Mr. Richards commented that for the boards should reaffirm variances and this property is in a pre-existing non-conforming.

Mr. Richards **Seconded**

Board Vote:

Mr. Seiler	Aye
Mr. Forrest	Aye
Mr. Richards	Aye
Motion approved	3-0

OLD BUSINESS:

Mr. Forrest: Moved to approve April 5, 2016 Zoning Board of Appeals amended minutes.

Mr. Richards: Seconded

Board Vote:

Mr. Seiler	Aye
Mr. Forrest	Aye
Mr. Richards	Aye
Motion approved	3-0

Upon motion made by Mr. Richards, seconded by Mr. Forrest, and unanimously approved, the meeting adjourned at 8:35pm.

The next meeting is August 2, 2016

Respectfully submitted,

Sokuna Mam
Zoning Board Secretary

Approved: _____