

**VILLAGE OF SOUTH NYACK**  
**Zoning Board of Appeals Minutes**  
**September 6, 2016**

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

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

**ABSENT:** Richard Holt – Member

**Mr. Seiler** called the meeting to order at 7:31 pm. This meeting was noticed to the public on August 30, 2016. There was one item on the agenda.

**An appeal by Scott McKee & Kathee Rebernak 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 for a side yard area variance for the construction of a deck addition to rear of the house. Required side yard variance re-affirms of the zoning for a non-conformity property.** The premises, a one family dwelling, is located 19 Division Ave., South Nyack, NY 10960 and identified on the Tax Map as Section Block and Lot 66.54-1-5, located in an RG-6 Zoning District.

**Case # 1:** 19 Division Ave., South Nyack, NY 10960

**Appearing:** Kathee Rebernak, Owners and Jeffrie Lane, Architect

**Mrs. Rebernak** is seeking approval for variances. She proposed to build a deck off of the existing back door of her house, along the west side of the rear wall. The total and side yard is non-conforming on existing house. Construction of the deck on the east side of the rear wall would conflict with existing steps necessary for outside access to the basement.

There was a discussion about whether or not Mr. Rulon needs to recuse himself from the meeting, but it was decided that it was not necessary for this project.

**Mr. Seiler** commented that the existing patio covers all areas of the proposed deck.

**Mr. Richards** asked if the steps will be removed.

**Mrs. Rebernak** commented the deck will be removed to the side.

**Mr. Richards** asked if the steps to the basement are removed, how the owners will access the basement from the outside.

**Mr. Lane** commented the basement steps sit below the ones that they will be removing.

**Building Inspector** does not have any concerns with this project.

**Mr. Richards** asked the applicant if there is an existing area variance.

**Mr. Knoebel** commented that the homeowner is applying for an area variance but there are also nonconforming conditions related to the existing house and the requirements of the zoning code.

**Mr. Seiler** commented since most properties are a pre-existing nonconforming, therefore there were no previous variances granted.

There was a discussion about granting and not granting nonconforming variances.

**Mr. Knoebel** commented that the applicants should review the dimensional requirements in the zoning code. The bulk table on the site plan states that the existing side yard and street frontage are pre-existing non-conforming as bulk. However, the side-yard represents a change and therefore requires an area variance. The notice did state that this application was for side yard variances and change in structure nonconforming as in bulk.

**Mr. Seiler** explained nonconforming uses of property are ‘grandfathered’ under zoning local law and not lost unless the owner plans on making changes to the properties.

There was a discussion about “grandfathered in.”

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

**Mr. Cross** made a motion to close the public hearing

**Mr. Richards** seconded

**Board Vote:**

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

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

**Mr. Richards**              **Aye**

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

**Motion approved**        **4-0**

**Public hearing closed 7:42pm**

**FINDINGS OF FACTS**

**Mr. Cross** noted:

- No increase of non-conforming
- The alleged hardship has not been self-created.

- The proposed variance will not have an adverse effect or impact on the physical in the neighborhood.

**Mr. Seiler** noted:

- The proposed deck will be over existing patio area, therefore it's raising the space
- The benefit sought by the applicant cannot be achieved by another method feasible for the applicant to pursue, other than an area variance.

**Mr. Richards** made a motion to grant variances for lot frontage, total side-yard, and side yard and nonconforming bulk to Scott McKee & Kathee Rebernak for 19 Division Ave. as shown on the plans by Jeffrie Lane dated May 9, 2016. This is a Type 2 SEQRA action with no potential for negative environmental impact. The existing patio do not required variances. The premises, a one family dwelling, is located 19 Division Ave., South Nyack, NY 10960 and identified on the Tax Map as Section Block and Lot 66.54-1-5, located in an RG-6 Zoning District.

**Mr. Seiler** noted:

- The proposed new deck project will be in the backyard of the residence on the westerly edge, and will not be visible from the side of the house.

**Mr. Cross Seconded**

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

**OLD BUSINESS:**

**Mr. Forrest:**    Moved to approve June 7, 2016 Zoning Board of Appeals amended minutes.

**Mr. Richards:** Seconded

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

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

**Mr. Richards:** Seconded

**Mr. Rulon**                   **Aye**  
**Mr. Forrest**                **Aye**  
**Mr. Richards**              **Aye**  
**Motion approved**        **3-0**

**Mr. Knoebel** noted that in a response dated 6/7/2016 from the Rockland County Dept. of Planning GML:

- The proposed site plan will have no adverse impacts on any county-wide interests; this matter is remanded for local determination.

Upon motion made by Mr. Forrest, seconded by Mr. Cross, and unanimously approved, the meeting adjourned at 7:55pm.

**The next meeting is November 1, 2016**

Respectfully submitted,

Sokuna Mam  
Zoning Board Secretary

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