

**VILLAGE OF SOUTH NYACK**  
**Zoning Board of Appeals Minutes**  
**June 6, 2017**

**PRESENT:** Roger Seiler – Chairman  
Bruce Forrest – Member  
Jeff Hirsch – Member  
Richard Holt -- Alternate Member  
DeWitt Rulon - Alternate Member

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

**Mr. Seiler** called the meeting to order at 7:31 pm. This meeting was noticed to the public on May 23, 2017.

1. **An application by Michael Arougheti, 51 Glen Byron Ave, South Nyack, New York 10960 for an interpretation of Zoning Ordinance as to whether or not the house is 4 stories and what bulk requirements are applicable to the premises; and, for area variances for stories from 3 to 4 where 3 stories is permitted 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 street frontage, side, total side yard to permit the construction of a two-story addition on the east side of the main residence and a patio with a wine grotto under it.** The premises, a one family dwelling, is located at 51 Glen Byron Ave., South Nyack, NY 10960 and identified on the Tax Map as S/B/L 66.70-2-12, and is located in an R-12 Zoning District.
2. **An application by Chaim Gubitz, 2 Salisbury Place, South Nyack, New York 10960 for an interpretation of Zoning Ordinance to determine an interpretation of the zoning ordinance definitions: "fence" and "structure" and bulk requirements applicable to the premises; 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.** 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.

**Case # 1 – 51 Glen Byron Ave.**

**Appearing:** Kier Levesque, Architect; Michael Arougheti & Bly Elinor, owner

**Mr. Levesque on behalf of Arougheti residence** is seeking variances for an extension of an existing nonconforming use as to bulk, existing nonconforming conditions as to lot width, side yard and total side yard. The applicant requested an interpretation of Zoning Ordinance for the definition of “story” whether or not the house is a four (4) story building; and/or for area variances for four (4) stories where

three (3) stories are permitted. The main issue is the definition of story. Based on the definition and his interpretation the house is three stories house with two additions. The proposed basement addition is not vertically aligned with the main house or under the three story section. Therefore the proposed basement is under a new story. If the Zoning Board members interpret the house will be four stories, Mr. Levesque request four stories house where three stories are permitted. The Zoning Code for an R-12 zone, the maximum building height allows 30ft. for 3 stories of a house. The east side of the house slopes down to the Hudson River. The proposed construction is for a two-story addition on the east side of the main house and a patio with a wine grotto underneath it.

**Mr. Forrest** reviewed the plans with Mr. Levesque to clarify the addition and proposed story. The following items are on the drawings:

- Attic
- Kitchen is in the basement
- Patio access from the outside

**Mr. Hirsch** asked the owner if he is going to dig underneath the grotto.

**Mr. Arougheti, owner** explained to plan to raise the patio, the grotto exist, and it's accessible from kitchen.

**Mr. Levesque** commented the property has a pre-existing, nonconforming and set back addition.

#### **No Public Comments**

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

**Mr. Forrest** seconded

#### **Board Vote:**

**Mr. Seiler**            **Aye**

**Mr. Holt**            **Aye**

**Mr. Forrest**        **Aye**

**Mr. Rulon**         **Aye**

**Mr. Hirsch**        **Aye**

**Motion approved**    **5-0**

**Public hearing closed**

### **FINDINGS OF FACTS**

**Building Inspector** defined the difference between basement and cellar.

**BASEMENT** - A portion of a structure, partly underground but having at least one-half (1/2) of its clear height above the average grade level of the adjoining ground.

**CELLAR** - A portion of a structure partly or fully underground and having more than one-half (1/2) of its clear height below the average level of the adjoining ground. A cellar shall not be used for habitable purposes.

**Mr. Knoebel** commented that the basement is a story.

**Mr. Seiler** noted that a story is now existing on the house, directly above the addition. Proposed addition does not caused the building to a four story structure. The applicant submitted the criteria.

**Mr. Forrest** made a motion to grant variances to extend a nonconforming as to bulk, for street frontage, side, total side yard to construct a two-story addition on the east side of the main residence and a patio with a wine grotto under it.

Board takes into consideration the benefit to the applicant if the variance is granted, weighed against the detriment to the health, safety and welfare of the neighborhood or community by such a grant. Granting of a variance, the Board shall make each and every one of the following findings:

- There is no undesirable change will not be produced in the character of the neighborhood.
- No detriment created to nearby properties by the granting of the area variance.
- Benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue, other than an area variance.
- The requested variance is not substantial.
- The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- No effect of any increased population density.
- That the alleged difficulty was not self-created.

The premises, a one family dwelling, is located at 51 Glen Byron Ave., South Nyack, NY 10960 and identified on the Tax Map as S/B/L 66.70-2-12, and is located in an R-12 Zoning District. This is a Type 2 SEQRA action with no potential for negative environmental impact.

**Mr. Rulon Seconded**

**Board Vote:**

<b>Mr. Seiler</b>	<b>Aye</b>
<b>Mr. Holt</b>	<b>Aye</b>
<b>Mr. Forrest</b>	<b>Aye</b>
<b>Mr. Rulon</b>	<b>Aye</b>
<b>Mr. Hirsch</b>	<b>Aye</b>

**Motion approved 5-0**

**Case # 2 – 2 Salisbury Pl.**

**Appearing:** Jan Degenshein, Architect

**Mr. Degenshein on behalf of the Gubitz residence** is seeking variances for an extension of a pre-existing nonconforming as to bulk and for construct four brick pillars on the driveway. The Planning Board could not determine whether the pillars are an accessory structure, or fence. If the Zoning Board determines the brick pillars are accessory structure then the applicant requests variances for construction within the front yard setback on the side property line. If the Zoning Board determines the brick pillars are a fence then the applicant would need a variance for the height of the pillars as a fence. If the Zoning Board determines the pillars are neither an accessory structure or fence, the applicant requested the Zoning Board remanded the application to the Planning Board with no restriction on the inclusion of pillars on the site plan.

**Mr. Degenshein** explained the history of the house. The two driveway entrances to the property are existing. The proposed pillars are for both driveway entrances. The two inner pillars contained low-wattage globe lamps at the top and the pillars are decorative for the house. Mr. Degenishein explained the owner made effort to improve the 90 yr. old house.

**Mr. Forrest** commented that the pillars on the north are on the property line.

The public made comments about their concerns about the installed lights and asked Mr Degenshein to visit the property at night to see their concerns.

**Mr. Degenshein** asked the public neighbors if they spoke with Mr. Gubitz in regards to their concerns or issues. If there were enforcement issues regards to Mr. Gubitz property, the owner will remove if the Village requires removing portion of the wall.

**Salisbury Pt. committee members** commented that for the land use board denied their application for lights on their sign.

**Mr. Forrest** commented that the lights complaints are an enforcement issue.

**Mr. Knoebel** commented that the applicant requested the lights are ½ lumens. He questioned if the lights conform to the zoning ordinance.

**Mr. Goodwillie** commented about the light regulation in the zoning code. Based on the zoning code, No upward-pointing lighting aimed at the sky, and no more than half a lumen spilling across the property boundary.”

**Mr. Degenshein** explained that the drawings will need to be modified for lights. The owner is responsive if there are any concerns and the Planning Board will need to review a revised application. He commented that as there is a street light on a utility pole at the front property line, there is no need to illuminate the street.

**Mr. Knoebel** commented that lights were not discussed at the Planning Board meeting. He asked Mr. Degenshein to show existing lightning on the plans.

**Mr. Seiler** recommended the Zoning Board adjourn the next meeting to give the Building Inspector the opportunity to look at the lights at night. The application is to be continued. He suggested the applicant to receive Army Corp. permit. He asked the plans to be updated including proposed boat lights.

There was a discussion about the use of a demountable lift boat. The board suggested that Mr. Degenshein include submit drawings the boat lift on top of the seawall and update details of the boat lift and elevation on the proposed plans.

**Mr. Knoebel** suggested the Zoning Board make decisions on determination whether pillars are accessory structure or fence or bulk requirements applicable to the premises. Lights are going to affect the site and the question is how to demonstrate code requirements.

**Mr. Seiler** moved to adjourn to continue the public hearing to next meeting on July 6, 2017.

**Mr. Holt Seconded**

**Board Vote:**

<b>Mr. Seiler</b>	<b>Aye</b>
<b>Mr. Holt</b>	<b>Aye</b>
<b>Mr. Forrest</b>	<b>Aye</b>
<b>Mr. Rulon</b>	<b>Aye</b>
<b>Mr. Hirsch</b>	<b>Aye</b>

**Motion approved 5-0**

**Old Business:**

**Mr. Seiler** moved to conditionally approve amended 5/2/17 Zoning Board of Appeals minutes subject review from Board Attorney.

**Mr. Forrest** seconded

**Board Vote:**

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

**Motion approved 3-0**

Upon motion made by **Mr. Seiler** and **Mr. Forrest** seconded, and unanimously approved, the meeting adjourned at 8:30pm.

**Board Vote:**

<b>Mr. Seiler</b>	<b>Aye</b>
<b>Mr. Holt</b>	<b>Aye</b>
<b>Mr. Forrest</b>	<b>Aye</b>
<b>Mr. Rulon</b>	<b>Aye</b>
<b>Mr. Hirsch</b>	<b>Aye</b>

**Motion approved 5-0**

**The next meeting is September 5, 2017**

Respectfully submitted,

Sokuna Mam  
Zoning Board Secretary

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