

**VILLAGE OF SOUTH NYACK**  
**Zoning Board of Appeals Minutes**  
**October 2, 2018**

**PRESENT:** Roger Seiler – Chairman  
Charles Cross – Member  
Bruce Forrest – Member  
Richard Rose – Member  
Jeffrey Hirsch – Member

**ALSO PRESENT:** Sokuna Mam – ZBA Secretary  
Robert Knoebel – Attorney for Zoning Board  
Scott Fine, Building Inspector

**ABSENT:** Richard Holt – Alternate Member  
Dewitt Rulon – Alternate Member

**Mr. Seiler** called the meeting to order at 7:37 pm. This meeting was noticed to the public on September 18, 2018. The following public hearings were held.

1. **An appeal by Lauren Doner from Article XI, Section 110-11.1(A) (1) & Article VII Section 110.7.4 Nonconforming Building and Uses and Table of Use and Bulk Requirements, Schedule 1, Page 3 of the Zoning Law of the Village of South Nyack for an existing building to extend an nonconforming as to bulk and side yard area variance for the construction of a front porch and new rear entry steps.** The premises is located at 7 Brookside Ave, South Nyack, NY 10960 and is identified on the Tax Map as Section Block and Lot 66.54-1-31, in an RG-6 Zoning District.
  
2. **An appeal by Chaim Gubitz from Article XI, Section 110-11.1(A)(B)& Article XI 110.1 (B)(1) Nonconforming Building and Uses and Table of Use and Bulk Requirements, Schedule 1, Page 3 of the Zoning Law of the Village of South Nyack for an existing building to extend an nonconforming as to bulk and side yard and minimum two side yard variances for the one story addition to the kitchen.** The premises is located at 2 Salisbury Pl., South Nyack, NY 10960 and is identified on the Tax Map as Section Block and Lot 66.78-1-26, in an RG-12 Zoning District.

**Case # 2 – 2 Salisbury Pl, South Nyack, NY 10960**

**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, side yard and both side yard variances. The applicant proposed to construct a one-story dinette addition to the kitchen. The construction will be on the north and west side of the house on the existing stone patio.

**Mr. Seiler** commented that if a future owner buys the property and decides to build a garage, the feasible place would be on northeast corner of the property. He also commented that the driveway must have enough space and compared it to his driveway which is 9'1" wide and functional. The 2 Salisbury Pl on the northeast side will have more than 9ft available for a driveway after addition is built.

**Mr. Cross** asked about the both side yard reductions from 35' to 27.2".

**Mr. Degenshein** explained that both side yards are 36'3".

**There was a discussion about the minimum side yard.**

**Mr. Rose** asked about the pre-existing non-conforming parts of the premises. He also noted that neighbors' were not present to express their concerns.

**Mr. Knoebel** said that the neighbor on the north side appeared before the Planning Board.

**Mr. Seiler** commented that the zoning law was first adopted in the 1930s and this house is pre-existing with its' nonconformities.

**Mr. Fine, Building Inspector** had no comments.

**Mr. Forrest** asked about the existing patio and any other attachments to the house.

**Mr. Degenshein** explained that there will be no covered patio and the patio will be attached to the main house.

**There was a discussion of the proposed kitchen and the proposed windows.**

**Mr. Rose** expressed that there should more details shown on the floor plan.

**Mr. Forrest** pointed out there's an existing 6' wood stockade fence adjacent to the north property line on the neighbor's property.

### **Public Comments**

**Anne Marie Dohran, Salisbury Pt. Coop.** made a complaint regarding the lights.

**Mr. Seiler** explained the existing lighting were considered as part of a prior application.

**There was a discussion about lights.**

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

**Mr. Forrest** seconded

**Board Vote:**

**Mr. Cross**            **Aye**  
**Mr. Rose**            **Aye**  
**Mr. Seiler**          **Aye**  
**Mr. Forrest**        **Aye**  
**Mr. Hirsch**         **Aye**

**Motion approved**    **5-0**

**FINDINGS OF FACTS**

**Mr. Forrest** listed the finding of facts and balancing test:

- An undesirable change will not be produced in the character of the neighborhood nor a detriment created to nearby properties by granting the area variance.
- The requested variances are not substantial – the side yard setback will be reduced minimally.
- The alleged difficulty was not self-created. This consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance as it’s not increasing any nonconformity.
- The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, because there’s no additional drainage impact.
- No additional storm water runoff
- The benefit sought by the applicant cannot be achieved by a method feasible for the applicant to pursue because the addition could not have been designed to protrude westward toward the street.
- The effect if any on the increased population density will be zero, as this application is for variances for existing conditions.
- Type II SEQR, no potential for negative environmental impact

**Mr. Cross** moved to grant variances for the existing building to extend a nonconformities as to bulk and side yard and minimum two side yard variances for a one story dinette addition to the kitchen on the north side of the house on the footprint of an existing stone patio. The premises is located at 2 Salisbury Pl., South Nyack, NY 10960 and is identified on the Tax Map as Section Block and Lot 66.78-1-26, in an RG-12 Zoning District.

**Mr. Forrest** seconded

**Board Vote:**

**Mr. Cross**            **Aye**  
**Mr. Rose**            **Aye**  
**Mr. Seiler**          **Aye**  
**Mr. Forrest**        **Aye**  
**Mr. Hirsch**         **Aye**

**Motion approved**    **5-0**

**Case # 1 – 7 Brookside Ave., South Nyack, NY 10960**

**Appearing:** Kier Levesque, Architect

**Mr. Levesque on behalf of the Doherty residence** explained that the Planning Board approved the reconstruction of the front porch, because it was damaged by a storm. He also explained the proposed reconfiguration of the kitchen and cellar entry at the rear of the house. The house is existing non-conforming to side yard and the garage is non-conforming. He is seeking variances which include; expanding and extending the nonconformities of the building and in the non-conforming garage. The applicant must apply for variances to the Zoning Board of Appeals. The applicants are seeking side yard variances for the principal building and accessory structure.

**Mr. Rose** asked if there will be more nonconformities and the answer was no.

**Mr. Forrest** and **Mr. Cross** were concerned about work done on the pre-existing non-conforming.

**Mr. Levesque** reassured the Zoning Board members that the applicant will not be increasing nonconformities or working in an area where additional variances are required.

**No Members from the public were present.**

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

**Mr. Rose** seconded

**Board Vote:**

<b>Mr. Cross</b>	<b>Aye</b>
<b>Mr. Rose</b>	<b>Aye</b>
<b>Mr. Seiler</b>	<b>Aye</b>
<b>Mr. Forrest</b>	<b>Aye</b>
<b>Mr. Hirsch</b>	<b>Aye</b>

**Motion approved 5-0**

**FINDINGS OF FACTS**

**Mr. Cross** listed the finding of facts and balancing test:

- That an undesirable change will not be produced in the character of the neighborhood nor a detriment created to nearby properties by the granting of the area variance. ***The variances requested are all for existing conditions. There will be no undesirable changes.***
- That the benefit sought by the applicant cannot be achieved by some other method feasible to pursue, other than an area variance ***because the existing structures are nonconforming bulk. Variances do not create any new nonconformities.***
- That the requested variance is not substantial ***in relation to the existing conditions, or other properties in the neighborhood.***
- That the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district ***because they are all existing conditions.***

- That the effect of any increased population density which may be produced upon available services and facilities is not significant - *zero increased population density*
- That the alleged difficulty was not self-created *the side yard setbacks are existing and adding on to an existing nonconforming building as to bulk.*
- Type II SEQR, no potential for negative environmental impact that in applying the balancing test more benefit will accrue to the applicant if the application is approved than would accrue to the community if denied.

**Mr. Rose** moved to grant variances for an existing building with regards to side yards for the construction of a front porch and new rear entry steps. The premises is located at 7 Brookside Ave, South Nyack, NY 10960 and is identified on the Tax Map as Section Block and Lot 66.54-1-31, in an RG-6 Zoning District.

**Mr. Cross** seconded

**Board Vote:**

<b>Mr. Cross</b>	<b>Aye</b>
<b>Mr. Rose</b>	<b>Aye</b>
<b>Mr. Seiler</b>	<b>Aye</b>
<b>Mr. Forrest</b>	<b>Aye</b>
<b>Mr. Hirsch</b>	<b>Aye</b>

**Motion approved 5-0**

**Old Business:**

**Mr. Seiler** moved to approve November 8, 2017 Zoning Board of Appeals minutes.

**Mr. Rose** seconded

**Board Vote:**

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

**Motion approved 3-0**

**Mr. Forrest** moved to approve amended December 1, 2017 Zoning Board of Appeals minutes.

**Mr. Rose** seconded

**Board Vote:**

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

**Motion approved 3-0**

**The Board postponed approval of minutes of the May 1, 2018 until the November 6, 2018 meeting.**

Upon motion made by **Mr. Forrest** and seconded by **Mr. Cross**, and unanimously approved, the meeting adjourned at 8:23pm.

**Board Vote:**

<b>Mr. Cross</b>	<b>Aye</b>
<b>Mr. Rose</b>	<b>Aye</b>
<b>Mr. Seiler</b>	<b>Aye</b>
<b>Mr. Forrest</b>	<b>Aye</b>
<b>Mr. Hirsch</b>	<b>Aye</b>

**Motion approved 5-0**

**The next meeting is November 6, 2018**

Respectfully submitted,

Sokuna Mam  
Zoning Board Secretary

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