

VILLAGE OF SOUTH NYACK
Zoning Board of Appeals Minutes
November 6, 2018

PRESENT: Charles Cross – Acting Chairman
Bruce Forrest – Member
Richard Rose – Member

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

ABSENT: Roger Seiler – Chairman
Dewitt Rulon – Alternate Member
Jeffrey Hirsch – Member
Richard Holt – Alternate Member

Mr. Cross called the meeting to order at 7:34 pm. This meeting was noticed to the public on October 23, 2018. The following public hearings were held.

1. **An appeal by Brian Nelson from the requirements of the Zoning Law of the Village of South Nyack Article XI, Section 110-11.1 Nonconforming Building and Uses and Table of Use and Bulk Requirements, Schedule 1, Page 2, for variances for less than required street frontage, side yard and total side yard setback.** The premises is a one family dwelling, and is located at 9 Voorhis Pt., South Nyack, NY 10960 and is identified on the Tax Map as Section Block and Lot 66.62-2-2, in an RG-12 Zoning District

2. **An appeal by Brookside Realty LLC to determine the applicability of Article XI, Section 110-11.1 of the Zoning Law of the Village of South Nyack for Nonconforming Buildings and Uses and, in the alternative, for area variances from the requirements of the Table of Use and Bulk Requirements, Schedule 1, Page 3, for less than required lot area, street frontage, front yard, side yard and total side yard and from the requirements of 110.-10.1, Off-Street Parking Requirements.** The premises is located at 96 Brookside Ave., South Nyack, NY 10960 and is identified on the Tax Map as Section Block and Lot 66.53-2-55, in an RG-4 Zoning District.

Case # 1 –9 Voorhis Pt., South Nyack, NY 10960

Appearing: Brian Nelson, Homeowner

Mr. Nelson proposed build an addition and renovating the existing detached single family residence. The house is pre-existing nonconforming. The side yard requirement is 15’, but the existing is 14.6’. These non-conformities are pre-existing this application. The house is about 100yrs old. The frontage setback was created with the original subdivision Voorhis Pt. Most of the homes on Voorhis Pt. frontage do not conform. Side-yards setback was created been the same since the house was built.

The conforming side yard was setback on the north side of the residence caused by side yard line cutting through the northwest corner of the shed and representing a couple sq. ft. causes nonconformance on drawing page 3. The plans do not increase any of the non-conformities. The setback from the south property line to the existing A.C. units is 10.6ft.

Mr. Cross asked confirmation about there's no footprint change.

Mr. Nelson confirmed the footprint will not change. The door will be moved forward 20ft. to put a set of stairs. The elevator will replace the existing stairs.

Mr. Rose asked about if the house is vacant. **Mr. Nelson** replied that the house is vacant.

Mr. Forrest asked Mr. Nelson if the proposed and existing footprint will be changed.

Mr. Nelson confirmed that the existing and proposed footprint is not to be increased.

Mr. Forrest commented that the street is a private estate.

No Public Comments

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

Mr. Rose seconded

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 it is not feasible or capable of changing the side-yard setback. The home has been in existence for over 100 years and the air conditioners have been in place since 1970.*
- 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 - *there is no increase in population density on available services or facilities.*
- That the alleged difficulty was not self-created *for less than required street frontage, side yard and total side yard setback, as all are existing.*
- pre-existing nonconforming
- private road

- The side-yard required 15ft., but the 10.5ft. from the a.c. unit is approved
- grant variances for variances for street frontage, side yard and total side yard setback.
- Type II SEQR, no potential for negative environmental impact

Mr. Forrest made a motion to grant variances for variances for street frontage, side yard and total side yard setback as shown on drawings prepared by Michael Esmay, Architect dated October 2, 2018. The premises is a one family dwelling, and is located at 9 Voorhis Pt., South Nyack, NY 10960 and is identified on the Tax Map as Section Block and Lot 66.62-2-2, in an RG-12 Zoning District.

Board Vote:

Mr. Cross **Aye**
Mr. Rose **Aye**
Mr. Forrest **Aye**

Motion approved 3-0

Mr. Rose seconded

Case # 2 – 96 Brookside Ave

Appearing: Michael Abuladze, Homeowner
 Ira Emmanuel, Attorney
 Kevin Brodie, Architect

Mr. Emmanuel represents the current owners of 96 Brookside Ave. His client is requesting alternative, for area variances from the requirements. He explained the building history that the house was built between 1910 and 1920s. The house was originally built as a two family dwelling. It has been listed as a three family since 2001. The house eventually foreclosed. . Mr. Lefkowitz purchased the house August 2017. Mr. Emmanuel explained that Mr. Lefkowitz obtained an interior demolition permit. Since, the proposed three family was denied, the client is seeking to restore the house to two family residence. He explained that most of the project is interior renovation and the footprint will remain. He explained the existing parking conditions.

Mr. Brodie explained the proposed including the following:

- Existing enclosed porch to become open covered porch – removing the existing jalousie windows and replace them with railings
- Basements - It will not be habitable space. It will be limited to storage, a utility room, and a laundry room.
- Crawl spaces – at the rear of the building will be maintained and on the east side crawl space will be moved from the north wall to the east wall.

- Relocate stairway from the exterior walls to the interior of the building which will eliminate the access to that was discontinued the third dwelling.
- First floor- each unit on the first floor will have an open floor with, a running from front to rear, living room, dining room and kitchen, a half bath and pantry form a core area behind each stairway.
- Second floor – contains the entry stair, bath and one bathroom.

Mr. Rose asked about the interior demolition and the **Building Inspector** commented that no work has been done since the Stop Work Order was issued.

Mr. Forrest commented that opening the front porch is causing the property to need a front yard variance.

There was a discussion about

- the lapse of the three family reestablishing to it to as a two family
- interior renovation.
- Pre-existing parking

Public Comments

Deirdre O’Hagan, White 54 Ave thought they will be discussing about variances and street parking.

Mr. Cross explained that the Zoning Board of Appeals does not grant street parking but can grant variances from the required parking.

Kenny Radoncic, 107 Cooper Dr. commented that soil excavation from the basement was dumped into the backyard.

Building Inspector commented since the stop work order and the owner has to submit a landscaping plan before further work can be done.

Mr. Abuladze homeowner commented that he will get rid of the soil and place the silt fence around it.

Victoria Schwaid, 59 White Ave. commented that throughout the neighborhood there are no parking variances and if the board approves it then it gives opportunity for other people in the neighborhood to request parking variances. She commented that the residents currently would have to call in to the police every night asking permission to park on the street.

Mr. Cross explained that the variances does not give permission to park overnight on the street but to allow the house to be used as a two family house despite there’s no substantial parking.

Jennifer Curran 47 White Ave, expressed her concerned about parking variances.

Mr. Emmanuel commented that they requested if the variances is disapproved then they also requested alternative variance to approve the application.

There was a discussion about overnight parking and that Zoning Board of Appeals does not grant on-street parking.

There was a discussion about the survey and driveway.

Matthew Schlanger 117 S Broadway, commented that when he changed his house from 1 to family that the zone allows multifamily and he had to provide two parking spaces. He asked about density. He was confused about variances are not needed and he had to get variances for everything he had to do since his house is nonconforming and was built in 1886.

Mark Dery 82 Brookside Ave, concerned about change of ownerships and LLC.

There was a discussion about LLC and it's a matter to speak to Board of Trustees.

There was a discussion about vacant properties.

There was a discussion about Brookside Parking Lot.

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

Mr. Rose seconded

Board Vote:

Mr. Cross	Aye
Mr. Rose	Aye
Mr. Forrest	Aye

Motion approved 3-0

Mr. Knoebel addressed the following:

- nonconforming uses and a building that is nonconforming that is nonconforming as to bulk - *South Nyack Zoning Code §110-11.2*
- discontinue of nonconforming use is not applicable to nonconforming bulk - *South Nyack Zoning Code §110-11.1.A.3*
- any nonconforming use and any building that is nonconforming as to bulk may be continued except enlarged, extended, reconstructed or placed on a different portion of the lot nor shall any external evidence of such use be increased - *South Nyack Zoning Code §110-11.1.A*
- The Planning Board approved the site-plan for the property as a two family dwelling.
- The Board should make an interpretation of the word reconstruction and the use of the property.

Mr. Forrest explained his understanding that the property lost the special use permit using the property as a three family. Based on the South Nyack zoning law, the property is allowed to be any other conforming use.

Mr. Rose commented that with his architect background he does not believe this project is a reconstruction, but a renovation although he acknowledge that there will be exterior evidence changes to the structure.

There is a discussion about reconstruction and restoration of a building.

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. *Conditions are pre-existing, Lack of parking is pre-existing.*
- That the benefit sought by the applicant cannot be achieved by some other method feasible to pursue, other than an area variance. *The applicant intends to benefit the Village and neighborhood by reducing nonconforming use and bulk*
- That the requested variance is not substantial
- That the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. *The proposed variance will not have an adverse effect.*
- That the effect of any increased population density which may be produced upon available services and facilities are not significant – *reducing density of the property.*
- That the alleged difficulty was not self-created
- Type II SEQR, no potential for negative environmental impact

Mr. Rose made a motion to grant variances less than required lot area, street frontage, front yard setback, side yard and total side yard and absence of four parking spaces as required as shown on drawings prepared by Kevin Brodie, Architect dated July 2, 2018. The premises is a two family dwelling, and is located at 96 Brookside Ave., South Nyack, NY 10960 and is identified on the Tax Map as Section Block and Lot 66.62-2-2, in an RG-4 Zoning District.

Board Vote:

Mr. Cross **Aye**
Mr. Rose **Aye**
Mr. Forrest **Aye**

Motion approved 3-0

Mr. Forrest seconded

The Board postponed approval of minutes of the May 1, 2018 until the next meeting.

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

Board Vote:

Mr. Cross **Aye**
Mr. Rose **Aye**
Mr. Forrest **Aye**

Motion approved 3-0

The next meeting is TBD

Respectfully submitted,

Sokuna Mam
Zoning Board Secretary

Approved: _____