

VILLAGE OF SOUTH NYACK
Zoning Board of Appeals Minutes
October 1, 2019

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

Mr. Seiler called the meeting to order at 7:30 pm. This meeting was noticed to the public on September 20, 2019. The following public hearings were held:

1. An appeal by Howard Katz and Patricia Katz from Article XI, Section 330-69(A) (1) & Article VII Section 330-34 Nonconforming Building and Uses and Table of Use and Bulk Requirements, Schedule 1, Page 2 of the Zoning Law of the Village of South Nyack for rear yard and front yard area variances to permit removing an existing detached garage, relocation garage and construction of a new detached garage. The premises is located at 1 Gesner Ave., South Nyack, NY 10960 and identified on the Tax Map as Section 66.62 Block 2 Lot 29 in an R-12 Zoning District.
2. An appeal by Sheean Haley and Andrew Juhl from Article XI, Section 330-69(A) (1) & Article VII Section 330-34 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 both side and total side yard variances to construct a one (1) story frame addition to existing residence. The premises is located at 126 Piermont Ave., South Nyack, NY 10960 and identified on the Tax Map as Section 66.54-2-2 on an RG-6 Zoning District.

Case #1 – 1 Gesner Ave., South Nyack, NY 10960
Appearing: Howard Katz & Patricia Katz, Owners
Margaret Fowler, Architect LLC
Seth Glasser, Contractor

Ms. Fowler reviewed the proposed removal of an existing detached garage, and construction of a new detached garage in a new location. The front of the property is on a long edge which will need front-yard and rear yard variance. The side-yard is compressed because it's 100ft depth. The current garage is on the property line. The existing two (2) story garage is non-conforming as to bulk and the proposal eliminates that non-conformity. The first goal that was addressed was to reduce impervious area on the lot and to increase landscaping. The second goal that was replace the one (1) story garage with the existing sloping

grading by tucking into the hill. The existing garage rear yard setback is 2'3", and the proposed is 5' and 8' is allowable.

The proposed garage will be for the owner's vintage race car collections to be stored.

Board Comments

Mr. Cross commented that the driveway faces his front door. The proposed project will improve the neighborhood, because they're eliminating the apartment that was owned by the previous owner.

Mr. Forrest commented that an accessory structure is in a R-12 zone. The south side of the property allows 30% of encroachment. The west side of the property required 25ft which is 44% encroachment. He asked about the 17.2% encroachment that wouldn't need variance. The building would have to meet side-yard requirements. The minimum side-yard setback required is 8 ft., 5.6 ft. is existing and 14 ft. is proposed.

Ms. Fowler explained that the existing retaining wall will be used, reducing the height of the garage and to reduce visual impacts.

There was a discussion about Rosie O'Donnell's other properties.

Mr. Fine asked about that the proposed garage because it's not a typical garage use. He expressed his concerns and agreed with Mr. Cross that eliminating the apartment in the garage will be improvement because living space in the garage is un-habitable.

Ms. Fowler explained the proposed garage is a two part car garage for work/storage area for the owner's vintage cars collections.

No Public Comments

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

Mr. Forrest seconded

Board Vote:

Mr. Seiler	Aye
Mr. Forrest	Aye
Mr. Cross	Aye
Mr. Hirsch	Aye

Motion approved 4-0

FINDINGS OF FACTS

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

Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; *relocating the proposed structure*

is a benefit to the neighbor to the south by being further away from the neighbor's house and open up their view space which will not be detrimental to nearby properties.

Whether the benefit sought by the applicant can be achieved by some other method, more feasible for the applicant to pursue, other than an area variance; *other methods will not be feasible*

Whether the requested area variance is substantial; *the requested variances are not substantial*

Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; *there's no increase in population density*

Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of an area variance; *condition was not self-created*

Mr. Knoebel commented that the Planning Board authorizes the Chair to write a memo to the Zoning Board summarizing their recommendations to grant variances.

The Planning Board has no objection to the granting of the requested variances.

Mr. Cross made a motion to grant variances for rear yard and front yard area variances to permit removing an existing detached garage, relocation garage and construction of a new detached garage, as shown on drawings, revision dated July 10, 2019, prepared by Margaret Fowler Architect and as shown on drawings, revision dated August 27, 2019, prepared by Atzl, Nasher & Zigler P.C. The Zoning Board balancing tests weigh the benefit to the applicant if the area is granted.

- This is a Type 2 SEQRA action with no potential for negative environmental impact.

The premises is located at 1 Gesner Ave., South Nyack, NY 10960 and identified on the Tax Map as Section 66.62 Block 2 Lot 29 in an in an R-12 Zoning District.

Mr. Hirsch seconded

Board Vote:

Mr. Seiler	Aye
Mr. Forrest	Aye
Mr. Cross	Aye
Mr. Hirsch	Aye

Motion approved 4-0

Case # 2 – 126 Piermont Ave., South Nyack, NY 10960

Appearing: Sheean Haley and Andrew Juhl, Owners
Jeffrie Lane, Architect

Mr. Lane reviewed the proposed one story frame addition to the rear of existing 1 ½ story. He explained that two methods of the layout. The proposed addition will be connected to the original part of the house

which will include a bedroom, bathroom and closet. The alternative location to the proposed addition would screen off to the kitchen wing. The neighbor to the west is a commercial property and its parking lot and the extension of the building to the north property parallel's to the neighbor's garage which would have minimal effect.

Mr. Lane read and reviewed the following criteria

- a. The proposed addition is located in the rear yard of the existing house, and is not visible from the street. The northern neighbor's view of the addition will be completely screened by their own garage. Therefore, that the granting of the area variance will not produce an undesirable change in the neighborhood, nor will it create a detriment to nearby properties.
- b. Location of the proposed addition is in response to the functional layout of the existing house plan. The proposed location connects to the original part of the house, which contains living and dining spaces and the stair to the second floor. Alternative location to house at more recent kitchen wing, which not be desirable from a functional standpoint. Therefore, the benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue, other than an area variance.
- c. The lot coverage of the existing house is 19%, in Zone RG-6, where 50% is allowable. The total lot coverage including the addition will be 22%. Therefore, that the requested variance is not substantial.
- d. The location of the proposed addition is in the rear yard, and adjacent to the garage on the neighboring property to the north ensures that it neither be visible from the street, nor from the neighbor's home, proposed grading does not result in runoff to adjoining properties, and no trees will be removed. Therefore, the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- e. The proposed addition to a single family residence contains a master bedroom, with full bath and closets. Therefore, the proposed addition will not produce a significant effect on population density.
- f. The non-conforming location of the existing house is pre-existing, and the location of the addition is functionally necessary. Therefore, the alleged difficulty was not self-created.

Board Comments

Mr. Hirsch asked about the proposed drainage. **Mr. Lane** submitted the drainage plan to the Village Engineer at the Planning Board meeting.

Mr. Forrest explained his opinion that the applicant needs only one variance instead of two. Because the in a RG-6 in relation of accessory buildings the minimum front yard is 25ft.

Mr. Lane explained his understanding from the Village Engineer; the side-yard adjustment for lots providing more than the minimum required street frontage. The desirable proportion of side yard for properties with greater street frontage than the base minimum required.

There was a discussion about total side yard requirement and based on the Village Engineer's notes, the applicant needed minimum total side yard.

Mr. Fine, Building Inspector commented that all his concerns were covered previously at the Planning Board meeting.

No Public Comments

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

Mr. Cross seconded

Board Vote:

Mr. Seiler Aye

Mr. Forrest Aye

Mr. Cross Aye

Mr. Hirsch Aye

Motion approved 4-0

Mr. Knoebel explained that the new section of the Zoning Local Law§ 330-37 in reference to the side yard adjustment for a lot providing more than minimum required street frontage. The total side yard requirement is increased; base ratio between total minimum required side yards and minimum required frontage for this case in a RG-6 zone. As frontage increases beyond the base minimum required, the total side yards requirement also increases.

FINDINGS OF FACTS

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

- The proposal is to construct a 1-story addition that will increase non-conformity as to side yard but not increasing overall nonconformity lot line which the minimum side yard remains 5.12ft and total side yard based on Village Engineer's notes.
- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; ***there's no character change will be produce and no detriment change to nearby properties***
- Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; ***the benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than an area variance.***
- Whether the requested area variance is substantial; ***the requested area variance is not substantial;***

- Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; *there's no adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed addition is not visible from the street.*
- Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of an area variance; *the alleged difficulty was not self-created, the non-conforming location the existing house is pre-existing.*

Mr. Forrest made a motion to grant variances for both side and minimum side yard variances to construct a one (1) story frame addition to existing residence, as shown on drawings, revision dated September 17, 2019, prepared by Jeffrie Lane Architect.

- This is a Type 2 SEQRA action with no potential for negative environmental impact.

The premises is located at 126 Piermont Ave., South Nyack, NY 10960 and identified on the Tax Map as Section 66.54-2-2 on an RG-6 Zoning District.

Mr. Cross seconded

Board Vote:

Mr. Seiler	Aye
Mr. Forrest	Aye
Mr. Cross	Aye
Mr. Hirsch	Aye

Motion approved 4-0

Old Business:

Mr. Hirsch moved to approve September 17, 2019 Zoning Board of Appeals as amended minutes.

Mr. Forrest seconded

Board Vote:

Mr. Seiler	Aye
Mr. Forrest	Aye
Mr. Hirsch	Aye

Motion approved 3-0

Code of the Village of South Nyack and Zoning Law

There was a discussion about:

- The zoning law is outdated.
- The Zoning Board chairperson will write a summary of the zoning law and it will need to be updated periodically.
- There's many changes in the zoning law which the Planning Board should review zoning amendments.
- The proposed amendments should be referred by the Board of Trustees to the Planning Board for a report before the public hearing.
- The Chapters and Numbering were changed is in the code books.
- The Code of Village of South Nyack is incomplete.
- The bulk table is missing.
- of the Board of Trustees focusing less on the Zoning Local Law and the need for ZBA input.
- The Zoning Board of Appeals serves as a quasi-judicial capacity when it hears appeals from the determination of the local zoning law.
- A zoning commission needs to be reestablished to update the zoning regulations. Then the zoning chairman should write and submit a report.

Upon motion made by **Mr. Forrest** and **Mr. Cross** seconded, and unanimously approved, the meeting adjourned at 8:42pm.

Board Vote:

Mr. Seiler	Aye
Mr. Forrest	Aye
Mr. Cross	Aye
Mr. Hirsch	Aye

Motion approved 4-0

The next meeting is TBD

Respectfully submitted,

Sokuna Mam
Zoning Board Secretary

Approved: _____