

Village of Upper Nyack
Zoning Board of Appeals Meeting
Tuesday, December 15, 2020, 8:00pm
Minutes

A meeting of the Zoning Board of Appeals of the Village of Upper Nyack was held on the above date via videoconferencing in accordance with the Governor's Executive Order 202.1 due to the COVID-19 emergency and called to order at **8:00 pm** by the Chairman, Thomas Englert.

Other Board members present: Stephen Lubeck, Joseph Scarmato and Marion Shaw.

Also present: Noelle C. Wolfson, Esq., Consulting Attorney and Jillana Sinnott, Secretary.

8:00pm: The Chairman opened the meeting and read the Notice of Public Hearing, which was published in The Journal News on December 8, 2020. The Chairman also reviewed how the Zoom meeting would take place due to the COVID-19 emergency in accordance with the Governor's Executive Order 202.1.

8:08pm: Approval of Minutes: Member Marion Shaw moved to approve the Draft Minutes from September 15, 2020 as amended; SECOND: Stephen Lubeck; unanimously APPROVED.

8:09pm: Louis Tharp and James Bumgardner, 515 North Midland Avenue, County Map No. 60.13-03-01-01. Appeal #2020-10.

Said property is located in Residential Zoning District R-3.

The APPLICANT submitted to the clerk the Certificate of Mail receipts of neighbor notification.

The Applicant was represented by Elizabeth Parks, Architect; Louis Tharp and James Bumgardner, Homeowners.

The Applicant requested area variances from the requirements of the Zoning Ordinance of the Village of Upper Nyack for **Article IV, Section 12:4 and Article V, Section 19:1**; minimum setback from side yard lot line for a dormer addition on an existing single family residence.

The Applicant discussed the submitted plans and the variances needed. The house is set back and there are two small accessories buildings on the Midland Avenue side. All of the structures are very old. Several structures have been connected over the years. The application is for a second floor addition over the living room and a dormer at the south end which needs a variance. The structure on the north side was originally a barn and has an existing dormer. The new addition on this structure will block the light and air so they are adding a new dormer on the south side that will provide the room with light and air.

The Board reviewed the application. The Chairman asked what the use of the two separate structures was. The homeowners noted that they are guest houses over 100 years old. One is empty and will be where they live during construction. The other structure is rented with no lease to a friend. The applicant represented to the Board that those structures are pre-existing and non-conforming.

The Secretary read emails received from the following neighbors in favor of the application that were submitted for the Planning Board review.

- Marc and Sari Mallow – 519 North Midland

- Melissa Fedor-Baroni and Stephan Baroni – 511 North Midland

The Board had no further comments.

MOTION: Member Stephen Lubeck moved to open the public hearing; **SECOND:** Marion Shaw; Unanimously **APPROVED**

There were no comments from the public.

MOTION: Member Joseph Scarmato moved to close the public hearing; **SECOND:** Marion Shaw; unanimously **APPROVED**.

The CHAIRMAN reviewed the area variance test and the five factors that must be applied (See Village Zoning Ordinance S 17:4, C2).

There will be no undesirable change in the character of the neighborhood. There is no detriment to property values and the neighbors have given support of the application. The variances cannot be achieved in any other way as these are pre-existing non-conforming side yards. The variances requested will have no substantial impact on the neighbors. The Planning Board and the Village Engineer have reviewed the application and there is no evidence of environmental or physical impact. The request is self-created as the Applicant wants to make the additions and alterations. On balance, the benefit to the Applicant outweighs the detriment to the community.

MOTION: The Board moved to grant the following variances for the improvements as depicted on the Tharp/Bumgardner site plan prepared by Jay Greenwell, PLS, LLC. last revised date of September 30, 2020; Variances from **Article IV, Section 12:4 and Article V, Section 19:1**; minimum setback from side yard lot line (south side of the lot), to allow the residence and the proposed new dormer addition to be located 11.4 feet from the south property line, where a setback of 25 feet is required.

MOTION BY: Joseph Scarmato
SECOND: Stephen Lubeck
VOTE: Unanimously Approved

There was no other business.

The meeting was adjourned at 8:27pm.

Respectfully submitted,
Jillana Sinnott, Secretary