

Village of Upper Nyack
Zoning Board of Appeals Meeting
Tuesday, April 20, 2021, 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, Marion Shaw, Paul Curley and alternate; Meg Fowler.

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 April 13, 2021. 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 Joseph Scarmato moved to approve the Draft Minutes from December 15, 2020 as amended; SECOND: Stephen Lubeck; unanimously APPROVED.

8:05pm: Peter and Mia Marsh, 661 North Broadway, County Map No. 60.06-01-01. Appeal #2021-01.

Said property is located in Residential Zoning District R-1.

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

The Applicant was represented by Kier Levesque, Architect; Rob Knoebel, Attorney and Peter and Mia Marsh, Homeowners.

The Applicant requested area variances from the requirements of the Zoning Ordinance of the Village of Upper Nyack for **Article III, Section 7**; request to modify a condition of an area variance granted for the subject building on 2/21/1962 limiting the use of such building to a tool shed/garage to permit a pool cabana use and **Article V, Section 19:1** and **Article IV, Section 10:4**; Minimum front yard setback (35 feet required, 28 feet, 6 inches permitted per variance granted 6/19/1980, 27 feet proposed) for an existing single family residence.

The Applicant, Mr. Knoebel, explained that the property was acquired in September 2019 from a Chase Bank foreclosure as is sale. The home was in disrepair, pipes had burst causing mold and cleanup. The property was part of the 1962 subdivision and a variance request petitioned for a tool shed and barn. In 1980 the garage was added but there was no mention of the tool shed/garage. The barn was converted into a residence by the previous owner. The applicant received a variance for the front for 28.5' and the side yard of 2'. No mention of use of the pool after 1962. The doors are not barn doors and don't open correctly to be used as a garage. They open to the pool. When the Applicant bought the property they were not aware that this was considered a second dwelling. The applicant is not asking for a use variance or a separate dwelling.

The Applicant, Mr. Levesque spoke about the discrepancies of the dimensions now requiring variances. In the past pencils and tape measures were used and they were not always accurate on the original drawings. The measurements now are correct because we have the tools to make exact measurements. Originally, Mr. Levesque was brought into the job to help stabilize the roof of the pool cabana. Drawings were filed and the Building Inspector issued a permit. The Applicant then file an application to fix the cabana and was sent to the Zoning Board of Appeals. The roof connects the garage to the main house and by definition that would create one structure.

Mr. Knoebel noted that as seen on the vicinity map the properties in this area are predominantly one family residences. The NYS building code notes that it would be a standalone building and the applicant only wants to make renovations. Mr. Knoebel asked the homeowner to explain how the structures are visible to the public. The applicant explained that the house surrounds a courtyard, has stairs to the yard and is a long narrow structure. The interior is not changing. There is an existing bathroom and kitchen. They have taken the stove out of the kitchen. There would be no use for this structure to be used as a tool shed/garage as it has regular patio doors. The structure is fully finished with walls, lighting, heat, tile floors and a kitchen. There will the Marsh family of four living in the house.

Mr. Knoebel questioned Mrs. Marsh and she responded to his questions.

- Is the property diffent from other properties in your area? No.
- Can you do the renovation so that it would not impact the neighbors? No.
- Are there any negative environmental impacts? No, we are just seeking ot repair what is already there.

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 10:01pm.

Respectfully submitted,
Jillana Sinnott, Secretary