

Village of Upper Nyack
Zoning Board of Appeals Meeting
Tuesday, September 17, 2019, 8:00pm
Minutes

A meeting of the Zoning Board of Appeals of the Village of Upper Nyack was held on the above date and called to order at **8:00 pm** by the Chairman, Thomas Englert.

Other Board members present: Stephen Lubeck, Joseph Scarmato and Michael Kuhling.

Also present: Robert P. Lewis, Village Attorney and Jillana Sinnott, Secretary.

Others in attendance: Jenny Zuniger-Casal and Francesca Bozorgomid.

8:00pm: The Chairman opened the meeting and read the Notice of Public Hearing, which was published in The Journal News on September 10, 2019.

8:00pm: Approval of Minutes: Member Stephen Lubeck moved to approve the Draft Minutes from July 16, 2019 as amended; SECOND: Joseph Scarmato; unanimously APPROVED.

8:03pm: **Majid Bozorgomid, 312 North Midland Avenue, County Map No. 60.17-01-18. APPEAL #2019-04.**

Said property is located in Residential Zoning District R-4.

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

Request to legalize home as a two family residence.

The APPLICANT was represented by the Homeowner's wife Francesca Bozorgomid and Jenny Zuniger-Casal, Architect. The homeowner read a letter regarding the history of the house and the homeowner's background, which was submitted to the Board. The Architect spoke to the Board about her professional history and how she would like to reorganize the rooms and keep the vibes of the Nyack architecture to the house.

The Chairman reviewed the details of the letter with the Board. The house appeared on the Town tax roll in 1973 as a two family. The Chairman noted that because the accessor changed the tax status it does not make it a legal two family house. The only ways available to change the use of the property from a one family residence to a two family residence would be to obtain a zone change from the Board of Trustees, a use variance from the Zoning Board of Appeals or have the home designated as a pre-existing non-conforming use prior to the adoption of the 1927 Code.

Member Scarmato noted that the Applicant bought the house in the condition it is in knowing it wasn't a legal two family house.

The Applicant responded that they bought the house as a foreclosure from the bank and were not able to go inside the house as it was occupied. They would need to spend a lot of money to fix the house and it would be a hardship for them.

Member Lubeck noted that the Applicant does not meet the criteria for a use variance and could go to the Board of Trustees to request a Zoning Change.

Member Kuhling noted that the house is more suitable for a two family but it is not a legal two family.

The Applicant stated that the decision is usually based on the history of the house and they are coming to the Board as the previous owners did not.

Member Lubeck reviewed the Zoning Code regarding a use variance and noted that there is no evidence that it applies. The Applicant would need to show history of substantial financial hardship.

There were no comments from the public.

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

The Chairman requested that the Village Attorney prepare a written decision.

MOTION: The Board moved to affirm the Building Inspector's decision to deny two family occupancy based upon the fact that the property is located in a one family zoning district and that the applicant both failed to request a use variance and prove the financial hardship required to sustain such a variance and there has been no application for or granting of a zone change in the area that would allow two family occupancy.

MOTION BY: Joseph Scarmato

SECOND: Michael Kuhling

Unanimously Approved

There was no other business.

The meeting was adjourned at 8:40pm.

Respectfully submitted,
Jillana Sinnott, Secretary