

Village of Upper Nyack
Zoning Board of Appeals Meeting
Tuesday, June 16, 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 June 9, 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.

8:03pm: Louie, Elvira & Aasin Ahmetaj, 606 Palmer Drive, County Map No. 60.05-02-34. Appeal #2020-06.

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

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

Request a variance from the requirements of the Zoning Ordinance of the Village of Upper Nyack for **Article V, Section 19:21**; side yard setback for a cabana and a shed on an existing single family residence.

The Board discussed that the posting of the legal notice was not visible. The Applicant stated that the landscaper had moved them but they had been visible until just today.

The APPLICANT was represented by Paul Gdanski, PE, Architect and Louie Ahmetaj, Homeowner. The cabana will be adjacent to the pool on the south side. The cabana is 16x14. The shed is 10x12 and will be 5' off the property line. The applicant is asking for a variance from the required setback from a side lot line of 30' to permit a setback from a side lot line of 20'. The cabana will be used seasonally with a restroom, changing area and sitting area. The purpose of the shed will be strictly to hold the patio furniture and pool equipment.

The Board discussed the application. Member Lubeck advised that the required setback from side lot lines for sheds is 5' and that the proposed shed is located 5' from the side lot line. Provided that the shed complies with all the other requirements applicable to sheds under the Zoning Ordinance of the Village of Upper Nyack no variance for the shed is required. The Chairman noted that the location of the shed is relevant in evaluating the impact of the cabana, which is very close to the shed and asked whether the shed could be moved somewhere else so it would not be located between the side lot line and the proposed cabana. Member Scarmato inquired what is already built and what is proposed on this application. The applicant responded that the only newly proposed structure are the for the shed and cabana, the pool has already been approved and built but wanted to do only do one as-built to keep the cost down.

An email from Diana Calhoun of 604 Palmer in support of the cabana and shed was read into the record.

The Chairman noted that they also have a pool. The foliage barrier between the properties was discussed. The applicant stated that there are some trees, a fence and boulders between the properties.

The Board reviewed the GML recommendations from the Rockland County Planning Department noted that the map date was incorrect. The Secretary noted that this has been resolved as the wrong date was submitted on the form and the site plan is correct.

The Board had no further questions.

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 five conditions for area variances (S 17:4, C2) of the Village Zoning Ordinance.

There will be no undesirable change in the character of the neighborhood. The request for a cabana cannot be placed somewhere else because of convenience. The request is substantial at a 33% reduction from 30' to 20' setback. There is no evidence of environmental or physical impact. Yes, this is self-created as the Applicant wants a cabana. The benefit to the Applicant outweighs the detriment to the community.

MOTION: The Board moved to approve the requested variance from **Article V, Section 19:1**; of the Zoning Ordinance of the Village of Upper Nyack to permit a setback from a side lot line of 20' where a 30' setback from a side lot line is required on the condition that the variance is limited to construction of the proposed cabana in the location depicted on the plan titled Pool Plan for Ahmetaj prepared by Paul Gdanski, PE, PLLC, dated October 13, 2017 last revised January 25, 2020.

MOTION BY: Stephen Lubeck

SECOND: Joseph Scarmato

VOTE: Unanimously Approved

8:21pm: Approval of Minutes: Member Joseph Scarmato moved to approve the Draft Minutes from May 19, 2020 as amended; **SECOND:** Marion Shaw; unanimously APPROVED.

There was no other business.

The meeting was adjourned at 8:24pm.

Respectfully submitted,
Jillana Sinnott, Secretary