

**REGULAR MEETING  
ZONING BOARD OF APPEALS**

Nyack Village Hall  
Nyack, New York

September 27, 2021

Present: Steven P. Knowlton, Chair  
Jack Dunnigan  
Ellyse Berg  
Roger Cohen  
Absent: Richard Gressle

**In Memoriam:  
Raymond O’Connell**

The following resolution was offered by Member Knowlton, seconded by Member Berg, and carried based upon a review of the evidence presented at the public hearing held on September 27, 2021

**BOARD OF APPEALS  
VILLAGE OF NYACK, COUNTY OF ROCKLAND**  
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In the Matter of the application of ARC of Rockland (82-84 South Franklin Street) for an Area Variance from VON Code Article IV, § 360-4.5B(3) for 6 parking spaces.  
-----X

The Zoning Board of Appeals held a public meeting on the 27<sup>th</sup> of September 2021 and due deliberations having been made this day;

Now, upon said hearing and upon the evidence adduced thereat, it is hereby found and determined that:

**FINDINGS OF FACT & CONCLUSIONS OF LAW**

**FIRST:** Applicant ARC of Rockland the Zoning Board for the area variance outlined above.

**SECOND:** The ZBA, in reaching its Findings of Fact and Conclusions of Law has taken the following factual testimony and evidence under consideration:

1. The application and supporting documents submitted;
2. The testimony of Adam Kurland, Esq. counsel for the Applicant and George Kimmerle and Daniel Werges;
3. ZBA members knowledge of the site in question;
4. Site visits by all members of the ZBA;

5. Chief Building Inspector's notes and summary;
6. Letter from Rockland County Planning dated September 10, 2021 recommending modifications to the application;
7. Public comment was received from Anthony Reinecke, a neighboring business owner with concerns about the lack of parking in the area..

**THIRD:** The site in question is located in the DMU-1 zoning district.

**FOURTH:** The Applicant is the contract-vendee of the property in question and wishes to convert a recreation facility (former gym space) into an Adult Day Care Center to continue the mission of the organization in the Village of Nyack. The ARC already has an active program that utilizes the First Reformed Church in Nyack.

**FIFTH:** Pursuant to Article III, VON Code §360-3.2C(2)(a) the facility must be licensed or recognized by the State of New York. Proof of compliance with this section of the Code has not yet been submitted. Testimony elicited at the hearing and proof submitted by the Applicant reveal that this is in progress. Such compliance will not be issued until after the modifications are made to the facility and the facility is inspected.

**SIXTH:** The Planning Board, at its September 2021 Hearing granted the application for a Special Permit to permit. As is its custom, it declined to give a recommendation on the parking variance request.

**SEVENTH:** The site in question is within the southern part of the Village business district, which already has a high degree of foot and vehicular traffic.

These Findings of Facts were moved and passed (4-0)

### **CONCLUSIONS OF LAW:**

The Zoning Board considered the factors set forth in Section 7-712-b(3)(b) of the Village Law of the State of New York as follows:

**(1) 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; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) 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 the area variance.**

**FIRST:** That the proposed variance does not create an undesirable change in the neighborhood. This conclusion was reached based upon deliberations of the Zoning Board at the

public hearing and based upon the factual findings set forth above in paragraphs SECOND through SEVENTH. (4-0)

**SECOND:** That no detriment to nearby properties will result from granting the variance. This conclusion was reached based upon deliberations of the Zoning Board at the public hearing and based upon the factual findings set forth above in paragraphs SECOND through SEVENTH. (4-0)

**THIRD:** That the Applicant has demonstrated that there are no other means by which it could achieve its purpose without the requested variance. This conclusion was reached based upon deliberations of the Zoning Board at the public hearing and based upon the factual findings set forth above in paragraphs SECOND through SEVENTH. (4-0)

**FOURTH:** That the variance is not substantial in light of the current conditions on the site. This conclusion was reached based upon deliberations of the Zoning Board at the public hearing, and based upon the factual findings set forth above in paragraphs SECOND through SEVENTH. (4-0)

**FIFTH:** That the hardship is not self-created. This conclusion was reached based upon deliberations of the Zoning Board at the public hearing and based upon the factual findings set forth above in paragraphs SECOND and FOURTH. (4-0)

The Board has weighed the findings of fact and the conclusions of law against one another as required under Section 7-712-b of the Village Law of the State of New York and finds in the interest of justice that the variances applied for should be GRANTED with the following conditions to which the Applicant has agreed:

1. The recommendations of the Nyack Architectural Review Board, the Nyack Planning Board, the Village Fire Inspector, and the Village of Nyack Fire Department in relation to this application must be followed.
2. Proof of compliance with Article III, VON Code §360-3.2C(2)(a) be provided to the Building Department within 5 days of receipt of same by the Applicant.
3. That the recommendations of the Rockland County Planning Board as set out in the September 10, 2021, correspondence be completed to the satisfaction of the Chief Building Inspector.

On a roll call, the vote was as follows:

Ayes: 4

Nays: 0

Abstain: 0

/s Steven P. Knowlton, Esq.  
STEVEN P. KNOWLTON, Chairman  
Zoning Board of Appeals, Nyack.