

**REGULAR MEETING
ZONING BOARD OF APPEALS**

VIA ZOOM PLATFORM
Nyack Village Hall
Nyack, New York

November 29, 2021

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

**In Memoriam:
Raymond O'Connell**

Absent:

The following resolution was offered by Member Berg, seconded by Member Cohen, and carried based upon a review of the evidence presented at the public hearing held on October 25, 2021.

**BOARD OF APPEALS
VILLAGE OF NYACK, COUNTY OF ROCKLAND**
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In the Matter of the application of Claudio Iodice (23 Route 59) for Area Variances from VON Code:

1. Article IV §360-4.3 (Dimensional Standards Table 4-1), for a front yard setback of 60' where the minimum required is 15' and the maximum permitted is 25'.
 2. Article IV §360-4.3 (Dimensional Standards Table 4-1) for a side yard setback to the East of 0' where 15' is required adjacent to a residential zone SFR-2.
 3. Article IV §360-4.3 (Dimensional Standards Table 4-1), for a minimum setback for both side yards of 0' where 15' is required.
- X

The Zoning Board of Appeals held a public meetings on the 25th of October, 2021 and due deliberations having been made;

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

The meeting of October 25 was kept open to the public due to the Applicant failing to meet the notice requirements. Proper notice was subsequently accomplished, and there was no new communications to this Board from the public as a result of this notice.

FINDINGS OF FACT & CONCLUSIONS OF LAW

FIRST: Applicant petitions the Zoning Board for the variances listed 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;
2. The testimony of Kenneth Moran, Esq. counsel for the Applicant;
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. There was no public testimony;
7. The decisions of the Architectural Review Board granting conditional and then final approval dated July 26, 2021;
8. The Planning Board's positive recommendation as to the variance application;
9. Letter from the Rockland County Department of Planning dated March 9, 2021.

THIRD: The site in question is located in the CC zoning district. The Applicant is the owner of the site for approximately 3 years.

FOURTH: The Nyack Planning Board issued a positive recommendation to this Board in relation to the variance requests. The Architectural Review Board has approved the application. The decisions and notes of these two boards are incorporated by reference herein.

FIFTH: The Applicant wishes to construct a freestanding warehouse with accessory offices on this empty lot that was formerly used as a parking and staging area for the construction of the new Tappan Zee Bridge.

SIXTH: The site is in a highly commercialized portion of the Route 59 corridor and is directly south and across from the New York State Thruway overpass that spans Route 59. The variances are required as the adjacent lot is in a residential zoning district.

The above Findings of Fact were moved and passed (5-0)

The Zoning Board elected to deliberate on the variance requests in an omnibus fashion. (5-0)

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 grant of the proposed variances do 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 SIXTH. (5-0)

SECOND: That no detriment to nearby properties will result from granting the variances. 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 SIXTH. (5-0)

THIRD: That the Applicant has shown that there are no other means by which it could achieve its purpose without the requested variances. 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 SIXTH. (5-0)

FOURTH: That the variances are 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 SIXTH. (5-0)

FIFTH: That the hardship is 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 paragraph SECOND through SIXTH (5-0)

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 variance applied for should be GRANTED with the following conditions, to which the Applicant has agreed:

1. The directives of the Architectural Review Board and the Planning Board be followed.
2. Any outstanding issues, if any, identified by the Rockland County Planning Board be resolved.

On a roll call, the vote was as follows:

Ayes:	5
Nays:	0
Abstain:	0

s/Steven P. Knowlton, Esq.
Steven P. Knowlton Chairperson
Zoning Board of Appeals, Nyack.