

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Nyack Village Hall
Nyack, New York

June 30, 2025

Present: Steven P. Knowlton, Chair
Jack Dunnigan
Richard Gressle
Roger Cohen
Ellyse Berg
Miriam Rubington, Non-voting Alternate

Abstain:

Absent:

Also Present: Chief Building Inspector Manny Carmona

The following resolution was offered by Member Gressle, seconded by Member Dunnigan, and carried based upon a review of the evidence presented at the public hearing held on June 30, 2025.

**BOARD OF APPEALS
VILLAGE OF NYACK, COUNTY OF ROCKLAND**
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In the Matter of the application of the Gisondi Family Partnership (42 Burd Street) for Re-issuance of Area Variances from Village of Nyack Code §360, Dimensional Standards Table 4-1 for the following pre-existing non-conforming conditions:

1. Side yard setback: 0 where 3 feet required;
2. Rear yard setback: 0 where 3 feet required
3. Variance from VON Code §360-4.5E for parking motor vehicles 3’6” where 15 feet is required and 2’ is the current condition on-site.
4. Variance from Article IV, VON Code §360-4.9B(1)(a)([1] for a fence height in the front yard greater than 3 feet, 6 inches.

-----X

The Zoning Board of Appeals held a public meetings on the 30th day of June 2025, and due deliberations having been made; the Chairman polled the members and determined there were no conflicts that would require recusal.

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 petitions the Zoning Board for the variances listed above. This application was originally set for the May hearing, but the Applicant failed to appear.

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 Eric Capellan, Property Manager;
3. ZBA members knowledge of the site in question;
4. Site visits by all members of the ZBA;
5. Chief Building Inspector's notes, testimony and summary;
6. Public testimony: there was no public testimony
7. This Board's decision and grant of the variances dated April 24, 2023.

THIRD: The site in question is in the DMU-2 zoning district. The Applicant is an owner of the property and wishes to rehabilitate an existing, former office building to include residential uses instead of offices and wishes to renew the previously granted variances.

FOURTH: The variances expired due to various business factors, including COVID.

FIFTH: Except for the fence height variance, the variances required are for pre-existing, non-conforming site conditions.

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

Upon motion, the Zoning Board will consider the variance requests in omnibus fashion.

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 re-grant of the variances 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 FIFTH. (5-0)

SECOND: That no detriment to nearby properties will result from re-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 FIFTH. (5-0)

THIRD: That the Applicant has shown that there are no other means by which it could achieve its purpose without the re-grant of 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 FIFTH. (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 FIFTH. (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 and FIFTH. (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 variances applied for should be GRANTED with the following conditions, to which the Applicant has agreed:

1. Any directives of the Architectural Review Board and the Planning Board be followed.
2. All requirements of the Village Engineer not already complied with shall be satisfied.
3. In relation to the pre-existing 6 inch overhang on the east side of the site, the Applicant agrees to consult with the Building Department to arrive at a compromise solution satisfactory to the Building Department. No building permit shall issue until this issue is resolved.
4. All potential detrimental health affects as a result of the grant of the variance from VON Code §360-4.5E (parking) will be minimized or eliminated to the satisfaction of the Chief Building Inspector.

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.