

**REGULAR MEETING
ZONING BOARD OF APPEALS**

VIA ZOOM PLATFORM
Nyack Village Hall
Nyack, New York

October 25, 2021

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

**In Memoriam:
Raymond O'Connell**

Abstain:
Absent:

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 October 25, 2021

**BOARD OF APPEALS
VILLAGE OF NYACK, COUNTY OF ROCKLAND**
-----X

In the Matter of the application of Dr. Jacob Wallach (99 North Broadway) for an Area Variances from:

VON Code: Article IV, §360-4.11E(2)(a): to legalize an existing freestanding sign non-complaint with setback requirements in the OMU zoning district.
-----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:

Member Gressle described his social relationship with the Applicant but affirmed that he could deliberate fairly.

FINDINGS OF FACT & CONCLUSIONS OF LAW

FIRST: Applicant petitions the Zoning Board for the variance 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 Dr. Jacob Wallace, 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. Testimony of the following members of the public: no public comment.
7. The notes and approval of the Architectural Review Board dated 9.22.2021 and made a part of the record.

THIRD: This is an application to legalize an pre-existing freestanding sign non-compliant with setback requirements in the OMU zoning district. There is no record of this sign being approved by the Building Department or by any land use board. The Applicant wishes to replace the sign, and in the process of filing the application for the replacement, the Building Department discovered that the original sign had never been approved. The prior sign ha been in place for approximately 50 years.

FOURTH: Applicant appeared before the Architectural Review Board on September 22 at which time it granted approval for the proposed sign. Despite its approval the ARB offered no recommendation on the grant of the variance despite approving the sign.

FIFTH: The testimony elicited indicates that the Applicant posits the need for the signage to identify the location of the business, a dental office.

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

CONCLUSIONS OF LAW:

As to the variance from VON Code: Article IV, §360-4.11E(2)(a): to legalize an existing freestanding sign non-complaint with setback requirements in the OMU zoning district.

(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 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 FIFTH. (5-0)

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 FIFTH. (5-0)

THIRD: That the Applicant has shown 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 FIFTH (5-0)

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 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 THIRD (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:

The recommendations of the ARB are to be followed.

On a roll call, the vote was as follows:

Ayes: 5

Nays: 0

Abstain: 0

/Steven P. Knowlton, Esq.

Chairman, Village of Nyack Zoning Board of Appeals