

**REGULAR MEETING
ZONING BOARD OF APPEALS**

Via ZOOM PLATFORM
Nyack, New York

January 31, 2022

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

**In Memoriam:
Raymond O'Connell**

Abstain:

Absent: Roger Cohen

The Chairman polled the members of the Board regarding potential conflicts. There were none.

The following resolution was offered by Member Dunnigan, seconded by Member Gressle, and carried based upon a review of the evidence presented at the public hearing held on January 31, 2022

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

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In the Matter of the application of DR Pilla (2-4 South Franklin St/143 and 145 Main Street) for an Area Variance from VON Code:

1. Article IV §360-4.5(B)(3) (Minimum Parking Requirement Table) for 3 parking spaces.

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The Zoning Board of Appeals held a public meeting on January 31, 2022, and due deliberations having been made;

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 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 Daria Tutko and Dominick Pilla from DR Pilla, 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. Public testimony: none.
7. The decisions of the Architectural Review Board and the Planning Board made a part of the record.

THIRD: The site in question is in the DMU-1 zoning district. The Applicant requires an Area Variance for 3 parking spaces associated with a minor subdivision application to merge 2 lots. All of the current parking (38 spaces) is grandfathered as this part of the downtown is fully developed without available parking but for limited street spaces on Main and Franklin, and the Village lot approximately 200 feet to the east of the site.

FOURTH: The sites in question are on the southwest corner of Main and South Franklin in the downtown and are already fully developed. The Applicant wishes to join the buildings and add a 1 story addition to 145 Main Street. The 145 Main Street structure will then house 4 1 bedroom apartments and 4 studio apartments and the existing restaurant. The apartments, like the rest of the uses on the site, will have no physical parking spaces associated with them.

FIFTH: The application remains open in front of the Nyack Planning Board. As per their usual procedure they declined to offer a recommendation on the parking variance. The Architectural Review Board conditionally approved the application in October 2021, with subsequent final approval after material review. The decisions and notes of these two boards are incorporated by reference herein.

The above Findings of Fact 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 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 hearings and based upon the factual findings set forth above in paragraphs SECOND, through FIFTH. (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 hearings and based upon the factual findings set forth above in paragraphs SECOND through FIFTH.

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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, THIRD and FOURTH. (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, THIRD and FOURTH (4-0)

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 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 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.

On a roll call, the vote was as follows:

Ayes: 4

Nays: 0

Abstain: 0

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