**TOWN OF SHANDAKEN**

**ZONING BOARD OF APPEALS**

**RESOLUTION**

**December 19, 2012**

**Applicant: The Phoenicia Library 48 Main St. Phoenicia, NY 12464 SBL# 14.13-3-4, Zoned HC**

**Zoning Board of Appeals Case: 2012-12**

The Phoenicia Library is requesting five (5) variances:

1 side yard variance for the west side of property of 3’ 3 5/8”

1 side yard variance for the east side of property of 2’ 3 3/8”

1 front yard setback variance of 10’ 4 3/8”

1 area & bulk density variance

1 parking variance

The Zoning Board of Appeals held a public hearing on October 17, 2012 on this matter. Members of the public were in attendance. The Zoning Board of Appeals made the decision to continue the public hearing until its next regularly scheduled meeting to be held on November 28, 2012.

The Zoning Board of Appeals continued the public hearing on November 28, 2012 and again heard from the public on this matter. The board decided to again continue the public hearing until the next regularly scheduled meeting to be held on December 19, 2012.

The Zoning Board of Appeals at its meeting of December 19, 2012 decided by a majority vote (3 yes to 1 no, 1 absent) to approve the variances as requested and declared it a Type II SEQRA, requiring no further review.

In making their determination, the board did discuss and address the following guidelines for approving a variance:

1. Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created.

The Zoning Board of Appeals found that there would be no changes in the character of the neighborhood, as the neighboring properties are also pre-existing, non-conforming. The Town of Shandaken code for the premises requires a twenty-five foot (25) front yard setback and a ten foot (10) side yard setback, many of the structures in the vicinity of the library are less than the twenty-five (25) foot front yard setback and less than the ten (10) foot side yard setback for adjoining buildings. As the proximity of the Library building with the proposed area variance would be consistent with the general character of the neighborhood, we find that the proposed side yard variance would not produce and undesirable change to the neighborhood.

2. Whether the benefits sought by the applicant can be achieved in some way other than a variance.

The ZBA has determined that the based on the property lines there is no other way the Phoenicia Library, which provides viable services to our community, can move forward without the requested variances

3. Is the variance being requested substantial?

The ZBA reviewed the information provided and based upon this information, the current area and bulk density is at twenty-three percent and with the new addition would increase by thirteen point nine (13.9) percent to thirty-six point nine (36.9) percent, therefore not substantial difference.

4. Whether the requested variance will have an adverse effect of impact on the physical environmental

condition of the neighborhood or district.

The ZBA determined that the requested variances would not have an adverse effect, as the prior use as a library and the continued use as a library would not change the character of the neighborhood or the neighboring properties.

5. Whether an alleged hardship was self-created

The ZBA determined that the hardship was not self-created, and was created by a fire that occurred there in 2010 and in order to conform with the “Americans with Disabilities Act” the installation of the handicap ramp necessitates a larger footprint for the structure.

The Zoning Board of Appeals has considered all of these in making its decision and feels that all issues were addressed in previous meetings.

Zoning Board of Appeals members Keith Johnson, Acting Chairman Rolf Reiss, and Joe Michaels voted to approve the requested variances. Member Gary Guglielmetti voted to deny the variances. Chairman Tom Hickey was absent.