

MINUTES
ZONING BOARD OF APPEALS
April 1, 2009

MEMBERS PRESENT: PATRICIA CASTELLI
DANIEL SULLIVAN
NANETTE ALBANESE
WILLIAM MOWERSON
DIANE DONNELLY

ABSENT: NONE

ALSO PRESENT: Dennis Michaels, Esq. Deputy Town Attorney
Ann Marie Ambrose, Official Stenographer
Deborah Arbolino, Administrative Aide

This meeting was called to order at 7: 00 P.M. by Chairman Mr. Mowerson.

Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEMS:

ART STUDENTS LEAGUE 75.13 / 1 / 1 & 74.16 / 1 / 9; R-40 zone	INTERPRETATION: DOES NOT MEET ALL THE CRITERIA NECESSARY TO BE CLASSIFIED A SCHOOL OF OF GENERAL INSTRUCTION	ZBA#09-09
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JP MORGAN CHASE BANK 74.11 / 2 / 51 & 52; CC zone	DRIVEWAY WIDTH, § 13.10 B (2) BUFFER VARIANCES APPROVED AS PRESENTED; SIGN AREA VARIANCE APPROVED AS MODIFIED	ZBA#09-16
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INERTIA SWITCH INC. 74.07 / 1 / 14; LIO zone	POSTPONED	ZBA#09-17
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NEW ITEM:

TURILLI 68.11 / 3 / 52; R-15 zone	FLOOR AREA RATIO, FRONT YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#09-18
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OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application: 135 South Highland Avenue Resubdivision Plan, 135 S. Highland Ave., Pearl River, N.Y., 68.15 / 2 / 77 & 78; R-15 zone; Peckish & Esurient, LLC Site Plan, 41 VanWardt Place, Tappan, N.Y., 77.15 / 1 / 66; R-15 zone; Buonadonna Subdivision Plan, 283 North Middletown Road, pearl River, N.Y., 68.12 / 3 / 24; RG zone; Orange & Rockland Utilities Corporate Drive Substation Site Plan and Conditional Use Permit, 2000 Corporate Drive, Orangeburg, N.Y., 73.15 / 1 / 19; LIO zone; Mountainview Property-

Hiep, 24 Mountainview Avenue, Orangeburg, NY 74.07 / 1 / 32; LI zone; Chestnut Petroleum Distributors Site Plan, 75 Dutch Hill Road, Orangeburg, NY, 74.10 / 1 / 68; CS zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

The verbatim minutes, as recorded by the Board's official stenographer for the above hearings, are not transcribed.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 10:30 P.M.

Dated: April 1, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
ASSESSOR
HIGHWAY DEPARTMENT
SUPERVISOR
TOWN BOARD MEMBERS
BUILDING INSPECTOR (Individual Decisions)
DEPT. of ENVIRONMENTAL MGMT. and ENGINEERING
Rockland County Planning

DECISION

**INTERPRETATION: NOT A SCHOOL OF GENERAL INSTRUCTION;
REQUEST REQUIRES A USE VARIANCE**

To: Walter Aurell (Art Students League)

ZBA # 09-09

118 Main Street
Tappan, New York 10983

Date: 1/21/09 & 4 / 1 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-09: Application of The Art Students League of New York for an interpretation from Chapter 43, Section 3.11, (4 Additional Residential Units: Not a Use Permitted by Right), R-40 District refers to R-80 District, Column 2 (Needs an interpretation whether the applicant is a School of General Instruction; if not then applicant is a School of Special Instruction and will require a Use Variance) to construct residence/studios for four visiting artists. The premises are located at 221 Kings Highway, Sparkill, New York, and are identified on the Orangetown Tax Map as 75.13 / 1 / 1 & 74.16 / 1 / 9; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, January 21, 2009 and April 1, 2009 at which time the Board made the determination hereinafter set forth.

Walter Aurell, Architect and Gary Sussman, Director, Art Students League, appeared

and testified.

The following documents were presented:

1. Architectural plans dated August 22, 2008 (8 pages) signed and sealed by Walter Aurell, Architect.
2. Survey dated October 13, 2008 signed and sealed by John R. Atzl, L.S.
3. The Art Student League of New York 2008-2009 catalog.
4. A letter dated January 29, 2009 signed by L. John Durney, Provost & vice President of Academic Affairs, St. Thomas Aquinas College.
5. Vylacil residents history contract recap (1 page).
6. Residency at Vytlacil (2 pages).
7. The hook dated March/ April 2005.
8. Advertisements and classes offered at the Vytlacil campus (9 pages).
9. A copy of Rivertown dated April 2005.
10. Letters dated January 26, 2009 and March 3, 2009 from Salvatore Corallo, Commissioner of Planning, County of Rockland Department of Planning.
11. A letter dated August 13, 2008 to Walter Aurell, Architect from John Giardiello, Director, Office of Building, Zoning and Planning Administration and Enforcement.
12. A letter dated August 8, 2008 to John Giardiello from Walter Aurell, Architect.
13. A letter dated August 28, 2008 from G.L. Sussman, Director, Vytlical Campus of the Art Students League of New York to John Giardiello, Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
14. A letter dated September 10, 2007 from Barbara Marks.
15. A memorandum dated January 8, 2009 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown.

Ms. Castelli made a motion to open the Public Hearing which motion was seconded by Mr. Sullivan and carried unanimously.

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (31); which does not require SEQRA environmental review. The motion was seconded by Mr. Sullivan and carried as follows: Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Sullivan; aye.
Mr. Mowerson was absent.

At the January 21, 2009 meeting Walter Aurell, Architect, testified that they are proposing to construct a residence and studio space for four visiting artists; that they are requesting an interpretation of what category the project falls under; that they would like the Board to classify the school as a “school of general instruction” and not a “school of special instruction”; that the school operates year round; that they are open seven days a week; that this campus’ main purpose is for international students, that the residence would accommodate visiting students for up to four months; and that he would like the Board to consider if this application can be considered a school of general instruction.

Gary Sussman, Director, testified that the Art Students League is 135 years old; that this campus’ main purpose is for international students; that technology, humanities, architecture, engineering, medicine, philosophy as they relate to fine art are all part of the studies at the campus; that the international students need a space to work and live; that the work space should be used for composing, writing, sculpture or painting; that they are not an accredited school but 18 to 20% of students are getting credit from accredited schools for courses given at the campus; that they are a non-profit and that they will supply the Board with more information on the courses offered at the campus.

Public Comment:

Andrew Wiley, Pearl River, testified that he owns property in Sparkill and he had to abide by the code; that this proposal seems a lot like his proposal for a hotel; that if the

school is not accredited than the project should not move forward; that Mr. Aurell, is Suzanne Barkley's husband; that she is the Supervisor's Assistant and it seems odd that at the reorganization meeting the Supervisor spoke about this applicant offering scholarships; that this property should have to follow all of the requirements; that if the school is not accredited by the State of New York it does not meet the requirements for a school of general instruction; that he wants to be sure that the Board is not being pressured by the Supervisor's office; that it seems odd that the offer of scholarships was announced before a variance was granted.

Donald Brenner, Attorney, testified that there are other classifications in the code that could permit this use.

At the meeting of April 1, 2009 Walter Aurell and Gary Sussman appeared and testified. Mr. Mowerson and Ms. Donnelly were present for this hearing.

Walter Aurell, Architect, testified that they are proposing a residence for four visiting artists; that the structure would house these students and have studios for work space; that the students would be present for short stays of one to four months of study; that when they met last time the discussion boiled down to whether this was a school of general instruction or special instruction; that they would like to make a case for a school of general instruction; that the school of general instruction permits dormitories as of right; that the proposal includes kitchens; and that they have supplied the Board with supplemental information on the courses offered through this campus.

Gary Sussmann, Director, testified that the school is not accredited by the NYS Board of Education, but other accredited schools send students to this school and gives them credited courses ; that St Thomas, Columbia, N.Y.U., and Mary Mount are accredited schools that give credits for courses offered through The Art Students League; that this application is a continuance of what already exists on campus; that the house is used for international graduate students already and they are trying to expand that; that they offer international graduate programming; that they are open seven days a week; that the Art Students League has been in existence for 135 years and is not seeking accreditation; that they are a private 130-C non-profit; that they are affiliated with accredited schools; and that they are going to build this structure, it doesn't matter how they are qualified.

Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

Mr. Mowerson made a motion to close the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded:

1. The applicant has not met all of the four requirements or elements necessary to classify the Art Student League as a School of General Instruction, pursuant to the definition of a "School of General Instruction" set forth in § 11.2 of the Zoning Code (Chapter 43) of the Code of the Town of Orangetown.
2. The applicant has admitted that the Art Students League is not accredited by the NYS Board of Education and does not seek such accreditation.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested interpretation for the Art Student League is a determination that the Art Student League is a school of “Special Instruction” and NOT a “School of General Instruction” as defined by Chapter 43, Section 3.11, (4 Additional Residential Units: Not a Use Permitted by Right), R-40 District refers to R-80 District, Column 2 and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute “substantial implementation” for the purposes hereof.

The foregoing resolution of Interpretation that the Art Students League does not meet the Orangetown Zoning Code definition requirements for a School of General Instruction was presented and moved by Ms. Albanese, seconded by Mr. Mowerson, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; and Ms. Castelli, aye; and Mr. Mowerson, aye. Ms. Donnelly observed but did not vote.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: April 1, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -L.P.

TOWN CLERK
HIGHWAY DEPARTMENT
ASSESSOR
DEPT. of ENVIRONMENTAL
MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

DECISION

§ 6.35 DRIVEWAY WIDTH, §13.10 B (2) BUFFER BASED ON A 42.5' DESIGNATED STREET LINE APPROVED; SIGN AREA APPROVED AS MODIFIED

To: Ira Emanuel, Esq. (Chase Bank)

ZBA # 09-16

4 Laurel Road

Date: 4 /1 / 09

New City, New York 10956

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-16: Application of JP Morgan Chase Bank for variances from Chapter 43, Section 6.35 (Maximum Driveway Width: 35' permitted, 42.4' proposed); Section 13.10B(2) (Buffer: 25' required, 18.7' proposed) and from Section 3.11, CC District, Column 5 Accessory Use #3 (Sign Area: 40 sq. ft. permitted, 205sq. ft. proposed) for signs proposed for the Orangeburg Chase Bank Site Plan.. The site is located at 333 Route 303, Orangeburg, New York, and is identified on the Orangetown Tax Map as Section 74.11, Block 2, Lots 51 & 52; CC zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on a Wednesday, April 1, 2009 at which time the Board made the determination hereinafter set forth.

Ira Emanuel, Attorney, Paul Anderson, Engineer and Bane Vujinovic, Architect appeared and testified.

The following documents were presented:

1. Site plan labeled SP-3 dated 8/4/06 latest revision date of 12/10/08 signed and sealed by Paul W. Anderson, Professional Engineer.
2. Lighting plan labeled SP-6 dated 8/4/06 latest revision date of 12/10/08 signed and sealed by Paul W. Anderson, Professional Engineer.
3. Five computer generated pictures of the proposed signs by NW Sign Industries labeled 07-1129-2 with additional package (11 pages), more details of proposed signs.
4. Planning Board decision #08-65 dated December 10, 2008
5. Cover letter dated December 23, 2008 from Ira Emanuel (6 pages with attached affidavit (5 pages).
6. A letter dated March 6, 2009 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
7. A letter dated March 12, 2009 from the County of Rockland Department of Highways signed by Sonny Lin, P.E.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

Since the Planning Board noticed its intent to declare itself Lead agency and distributed that notice of intention to all involved agencies, including the Zoning Board of Appeals who consented or did not object to the Planning Board acting as Lead Agency on 12/03/2008, pursuant to coordinated review under the State Environmental Quality Review Act Regulation § 617.6 (b) (3); and since the Planning board conducted SEQRA review and rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use action (i.e. a “Negative Declaration” or “Neg Dec”) on 12/10/2008, the Zoning Board of Appeals is bound by the Planning Board’s Neg Dec and the Zoning Board of Appeals cannot require further SEQRA review pursuant to SEQRA Regulations § 617.5 (b) (3).

Ira Emanuel testified that the new bank branch is proposed to be built on the old gas station property at the point on Route 303 where Orangeburg Road intersects; that this proposal will upgrade that intersection; that the Department of Transportation did not want a left turn at the traffic light; that they wanted the turn at Kings Highway, which made no sense; that after two years of negotiation they realized that what the DOT did not want was more curb cuts; that in order to cut down on the curb cuts they have agreed to have access into the adjacent shopping center; that because of the access the driveway had to be widened which lessened the buffer area from the required 25’ to 18.7’; that the buffer area is based on the designated street line of 42.4; that the Rockland County Highway letter is dealing with items that are related to the Planning Board; that all of their comments can be addressed; that the signs are in a CC zone; that it is his understanding that they are permitted signs that are 15% of the wall size of the building; that they meet this criteria on three sides of the building and need a variance for the fourth side of the building; that the sign on the front of the building exceeds the 40 sq. ft. permitted; and that he doesn’t agree that only 40 sq. ft. are permitted for the entire site.

Paul Anderson, P.E., testified that presently there are four points of access on these sites to Route 303; that they are reducing that to one access point which is dictating the width; that because they are proposing a cross access to the adjacent shopping plaza the traffic must be two-way traffic; that this causes the reduction in the buffer area; that they are still going to meet the intent of the Route 303 overlay zone with a 18.7’ buffer but do not have enough room to provide the full 25’ required.

Bane Vujinovic, Architect, testified that because the new bank building will be seen on all four sides they proposed signs for all four sides; that they thought the code meant that 40 sq. ft. were permitted on each side of the building; that they can remove the sign that would face the adjacent shopping center and the sign in the rear of the building that would face the Holiday Inn; that this modification would reduce the requested sign area from 204.77 sq. ft. to 131.15 sq. ft.; and that the pylon sign is calculated into those numbers.

Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Mr. Sullivan and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested variances for a 35' driveway width; 18.7' buffer, and sign area as modified to 131.15 sq. ft., will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to remove the signage on the south and east sides of the building, reducing the requested sign area from 204.77 sq. ft. to the approved 131.15 sq. ft..
2. The requested variances for a 35' driveway width; 18.7' buffer, and sign area as modified to 131.15 sq. ft., will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The new entrance has been studied and approved by the NYS Department of Transportation and the Rockland County Highway Department and the applicant has agreed to meet the requirements of the March 12, 2009 letter from Rockland County Highway Department.
3. The benefits sought by the applicant cannot be achieved by any other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested variances for a 35' driveway width; 18.7' buffer, and sign area as modified to 131.15 sq. ft., although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested variances for a 35' driveway width; 18.7' buffer, and sign area as modified to 131.15 sq. ft. are APPROVED with the SPECIFIC CONDITIONS that (1) the applicant remove the proposed signs for the south and east sides of the building; (2) the applicant address all of the comments in the letter dated March 12, 2009 from the Rockland County Highway Department; (3) the concerns expressed in the October 14, 2008 letter from the New York State Department of Transportation be addressed and all required permits obtained; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the

sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

The foregoing resolution to approve the application for the variances for a 35' driveway width; 18.7' buffer, and sign area as modified to 131.15 sq. ft. was presented and moved by Ms. Albanese, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Castelli, aye; and Mr. Mowerson, aye. Ms. Donnelly observed but did not vote.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: April 1, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -L.P.

TOWN CLERK
HIGHWAY DEPARTMENT
ASSESSOR
DEPT. of ENVIRONMENTAL
MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

DECISION

**FLOOR AREA RATIO, FRONT YARD AND BUILDING HEIGHT
VARIANCES APPROVED**

To: Steve and Carol Turilli

ZBA # 09-18

159 Woodland Avenue

Date: 4 /1 / 09

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-18: Application of Steve and Carol Turilli for variances from Chapter 43, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .266 existing, .39 proposed), 8 (Front Yard: 30' required, 15.2' proposed), and 12 (Building Height: Section 5.21: Undersized Lot Applies: 20' permitted, 24'11" proposed) for an addition to an existing single-family residence. The premises is located at 159 Woodland

Avenue, Pearl River New York, and are identified on the Orangetown Tax Map as Section 68.11, Block 3, Lot 52; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on a Wednesday, April 1, 2009 at which time the Board made the determination hereinafter set forth.

Steve and Carol Turilli and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 10/6/08 (2 pages) signed and sealed by Jane Slavin, Architect.
2. Map of Property signed and sealed by Stephen F. Hoppe, L.S. dated Nov. 17, 2008.
3. A letter in support of the application.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Mr. Sullivan and carried as follows: Ms. Albanese, aye; Mr. Sullivan; aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

Carol Turilli testified that they purchased the house in 1994; that they have three children aged 12,10 and 4; that the existing bedrooms are very small with slanted ceilings; that two of the girls are sharing a bedroom and it is getting difficult because of the age difference; that the older one needs to be up for school and the little one is getting woken up because the space is too small; that they did look into moving but there is not anything available in their price change that meets their needs; that they love the school district; that the house is on a dead-end street; that they love their neighborhood and would like to add onto the house so that they can stay in the neighborhood.

Jane Slavin, Architect, testified that the house is a small cottage type house with dormers; that the existing photos show that this is a small cottage with low dormers; that A-1 of the drawings show the floor plan; that the existing sun porch on the west side of the house is being removed; that the addition will include a family room with a bedroom above it; that the covered front porch is being removed which will increase the front yard; that the lot is undersized for the R-15 zone; that the required lot size is 15,000 sq. ft. and this lot has 8,030 sq. ft.; that the proposed addition will add 1,004 sq. ft.; that the existing house is 2,141 sq. ft.; that the complete house will be 3,145 sq. ft.; that if the lot was not undersized the proposal would meet the floor area ratio; that the existing front yard is 10.8' and will be 15.2' if approved; that the height of the existing building is 20.9' and the height will increase by about 4'; that this is necessary to increase the head height to 8'; that she would like to submit a tax map showing property sizes in the area; that it clearly shows a very mixed neighborhood; and that she would like to submit pictures of several house in the area.

Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General

Municipal Law of New York was received.

Mr. Mowerson made a motion to close the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested variances for floor area ratio, front yard set back, and building height will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested floor area ratio, front yard set back, and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio, front yard set back, and building height variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested floor area ratio, front yard set back, and building height variances are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be

obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute “substantial implementation” for the purposes hereof.

The foregoing resolution to approve the application for the requested floor area ratio, front yard set back,, and building height variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Castelli, aye; and Mr. Mowerson, aye. Ms. Donnelly observed but did not vote.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: April 1, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR –B.vW.

TOWN CLERK
HIGHWAY DEPARTMENT
ASSESSOR
DEPT. of ENVIRONMENTAL
MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

