

MINUTES  
ZONING BOARD OF APPEALS  
April 16, 2008

MEMBERS PRESENT: JOHN DOHERTY  
WILLIAM MOWERSON  
NANETTE ALBANESE  
DANIEL SULLIVAN

ABSENT: PATRICIA CASTELLI

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

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

SML RELD  
69.10 / 2 / 71; R-15 zone

FLOOR AREA RATIO  
VARIANCE APPROVED

ZBA#08-12

STUDENT BUS COMPANY  
74.07 / 1 / 15; LI zone

OUTDOOR STORAGE  
VARIANCE APPROVED

ZBA#08-29

NEW ITEMS:

FARRY  
77.08 / 3 / 32; RG zone

BUILDING HEIGHT  
VARIANCE APPROVED

ZBA#08-32

RYAN  
68.15 / 3 / 19; RG zone

SIDE YARD AND  
TOTAL SIDE YARD  
VARIANCES APPROVED

ZBA#08-33

DORIGUZZI  
68.15 / 5 / 43; RG zone

FRONT YARD, REAR  
YARD AND BUILDING  
HEIGHT VARIANCES APPROVED

ZBA#08-34

ZACCARO/BOURMATNOV  
69.20 / 1 / 74; R-15 zone

FLOOR AREA RATIO  
AND TOTAL SIDE YARD  
VARIANCES APPROVED

ZBA#08-35

QUELCH  
72.08 / 1 / 50; RG zone

SIDE YARD AND  
TOTAL SIDE YARD VARIANCE  
APPROVED AS MODIFIED

ZBA#08-36

STEINMETZ  
71.09 / 1 / 32; R-22 zone

STREET FRONTAGE,  
REAR YARD AND BUILDING  
HEIGHT VARIANCES APPROVED

ZBA#08-37

FAILING  
69.19 / 1 / 31; R-15 zone

STREET FRONTAGE  
TOTAL SIDE YARD AND  
BUILDING HEIGHT VARIANCES APPROVED

ZBA#08-38

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting 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: Wyeth Site Plan two detention basins Middletown Road, Pearl River, New York 68.08/1/1; LI 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 11:00 P.M.

Dated: April 16, 2008

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**

**FLOOR AREA RATIO VARIANCE APPROVED**

To: Jay Greenwell (SMK Reld)  
85 Lafayette Avenue  
Suffern, New York 10901

ZBA # 08-12  
Date: 4/16/ 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-12: Application of SMK Reld for a variance from Chapter 43, Section 3.12, R-15 District, Group M, Column 4 (Floor Area Ratio: .20 permitted, .22 proposed) for the construction of a new single-family residence. The premises are located at 98 South Reld Drive, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.10, Block 2, Lot 71; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on Wednesday, February 6, 2008 and April 16, 2008 at which time the Board made the determination hereinafter set forth.

Sean Keenan, Robert Hoene, Architect, Jay Greenwell, Land Surveyor, Bert Dorfman and Kevin Conway, Attorneys appeared and testified.

The following documents were presented:

1. Plot plan dated 12/18/07 with the latest revision date of 3/7/08 signed and sealed by Jay Greenwell, PLS.
2. Exhibit showing residential area surrounding proposed dwelling for SMK Reld by Jay Greenwell, PLS. dated February 5, 2008.
3. Architectural plans dated November 2007 with the latest revision date of March 3, 2008 signed and sealed by Robert Hoene, Architect.
4. Eleven color pictures of houses in the area.
5. Five tax records for neighboring properties.
6. One letter in opposition of the application.
7. Picture of house located at 10 Villa Road with ZBA Decision #04-127.
8. Picture of house located at 35 Reld Drive with ZBA Decision #96-33.
9. Picture of house located at 16 Duhaime Road with ZBA Decision #02-57.

On advice of Mr. Michaels, Attorney 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) Regulations which does not require SEQRA environmental review. The motion was seconded by Mr. Sullivan and carried as follows: Mr. Doherty, aye; Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Ms. Castelli was absent.

At the meeting of February 6, 2008 Robert Hoene, Architect testified that the new house would be a two-story house with a single garage; that there is a small porch for aesthetics and a dining room, family room, kitchen and powder room on the first floor and four bedrooms and two baths upstairs; that the roof is a hip roof so that it won't tower over the other houses; that there is a full walk out basement in the back; that 2,250 sq. ft. are permitted on this property and the proposal is 225 sq. ft. above that; that this is the minimum size house a potential buyer would be interested in; that there are several houses in the area that have done additions; that the mean height of the proposal is 24.6'; that the garage could not be reversed because of the intersection and the grade of the property; and that they will take another look at the height.

Jay Greenwell, Land Surveyor, testified that this is an undersized lot for the R-15 District; that the property is located at the steep portion of Reld Drive and they are proposing to use the existing driveway on the west side; that if the Board looks at the aerial view of the properties they will see how the proposed house footprint relates to other houses in the area; that the lot drops off from west to east and lends itself to a higher elevation on the east side; that there are one story houses right next door; and that they would like a continuance to see if the pitch of the roof could be lowered.

Sean Keenan testified that he purchased the lot a couple of months ago.

Bert Dorfman, Attorney, testified that this is a pre-existing non-conforming lot; that a two-story structure is permitted; that the requested height variance is not substantial; that constructing a two-story structure on this lot would not be out of character for the neighborhood; that this is a mixed neighborhood as evidenced by the pictures submitted; and that they would like a continuance.

Public Comment:

John Murphy 92 S. Reld Drive, testified that the height, scale and size of the proposed house compared to the existing one story house on the block is too much; that #'s 50,51, 57, 65, and 76 are all single-story houses; that from the rear this is a three story structure; that the house measures 37' from the door sill on the back of the house to the peak.

John Scene, 63 Champ Street, testified that this house is too big for this modest neighborhood.

Mr. Moscatt, 57 Champ Street, testified that he is an adjacent neighbor to the rear of the

proposal; that the height is too much and it is imposing over his house; that he hopes the Board takes that into consideration.

At the meeting of April 16, 2008 Robert Hoene, Architect, Kevin Conway, Attorney and Jay Greenwell, Land Surveyor testified.

Kevin Conway, Attorney testified that the applicant listened to the neighbors at the last meeting and revised the house plan, lowering the height; that the height variance request has been eliminated; that the only variance being sought is for floor area ratio; that .20 is permitted and .22 is being requested; that this is not a large request and should not alter the character of the neighborhood; that all of the lots are undersized; that it is a trend in Pearl River to put up new houses similar to this proposal; that it will increase the value of the properties in the area; that immediately on Cara Drive there are 7 newer homes; and that the market is not such that ranch and cape cod style houses are being built anymore.

Jay Greenwell, Land Surveyor, testified that they went back to the drawing board and eliminated the height variance; that he would like to address the comment from the neighbor who is concerned about drainage; that the site now is steep and the property is pitched west to east toward this neighbors house; that after this house is built the water is going to be directed into the existing swale to the southeast of the property and a swale is going to be installed to direct run-off directly to the street; that this will improve the existing conditions for the neighbor to the east; that the contours that exist now direct the water to the east and some to the south; that they are not subject to the zero net increase rule because this is not considered new construction; that they are replacing a house with a house; that the threshold in town is up to 600 sq. ft. of additional impervious area requires no mitigation; and that they have mitigated a problem that is pre-existing.

Robert Hoene, Architect, testified that he worked on the roof lines and cut and turned for a hip style that would not be bulky; that it worked and no height variance is being sought; that the rooms in the house are relatively small by today's standards; that the living room is 11' x 14' that there are four modest bedrooms with 5'x8' bathrooms; that the house is 2,475 sq. ft. and includes a one car garage and small covered porch; that they are 225 sq. ft. over the permitted sq. footage; that he lot is narrow and the redesigned house has been reviewed by the Building Inspector; that from the front of the house it now appears like a story and a half instead of a two-story structure.

Public Comment:

None

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.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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 floor area ratio variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant addressed the height issue and the floor area ratio is only 225 sq. ft. over the permitted square footage.
2. The requested floor area ratio variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The

applicant's site plan as submitted includes two drainage swales that should improve the existing drainage situation.

3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.
4. The requested floor area ratio variance is not substantial.
5. The applicant purchased the property so 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 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 variance is 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 variance was presented and moved by Mr. Doherty, seconded by Mr. Sullivan, and

carried as follows: Mr. Mowerson, aye; Mr. Sullivan, aye; Mr. Doherty, aye; and Ms. Albanese, aye. Ms. Castelli was absent.

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 16, 2008

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 -R.O.

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

DECISION

**OUTDOOR STORAGE VARIANCE APPROVED FOR TERM OF PRESENT  
LEASE WITH CONDITIONS**

To: Donald Brenner (Student Bus Company)  
4 Independence Avenue  
Tappan, New York 10983

ZBA # 08-29  
Date: 4 / 16 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08- 29: Application of Student Bus Company for variances from Chapter 43, Section 3.11 LI zone, Col 7 Regulation #5 (Storage of School buses not in an enclosed building: outdoor storage proposed) for the storage of school buses in an existing parking lot located on the east side of Greenbush Road at the intersection of Mountainview Avenue, Orangeburg, New York, and are identified on the Orangetown Tax Map as Section 74.07, Block 1, Lot 15; LI zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on Wednesday, April 2, 2008 and April 16, 2008 at which time the Board made the determination hereinafter set forth.

Donald Brenner appeared and testified.

The following documents were presented:

1. Proposed parking lot modifications for Student Bus Company Lot-1 Orangeburg Salisbury Corp. dated 11/20/07 revised 12/11/07 signed and sealed by Jay Greenwell. Land Surveyor.
2. Planning Board Decision #07-55 dated January 23, 2008.
3. Three memorandums from John Giardiello, Director Office of Building, Zoning and Planning Administration and Enforcement dated Oct. 24, 2007, Sept. 26, 2007 and Jan. 23, 2008.
4. A letter dated March 31, 2008 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
5. A letter dated March 18, 2008 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.

At the April 2, 2008 meeting Ms. Catelli recused herself because the bus company has a contract with the school district that employs her.

Mr. Brenner, Attorney requested a continuance until the next meeting when there would be enough board members to override the County Planning letter.

At the April 16, 2008 meeting Jay Greenwell, Land Surveyor and Donald Brenner, Attorney appeared and testified.

Donald Brenner, Attorney, testified that at the prior meeting there were four members present but one member had to recused herself because she is employed by the school district; that the Planning Board overrode the Rockland County Planning Board letter because there is no construction taking place; that the application needs four members to override the county letter; that the bus company has a lease for three years and have been operating in the space since September; that if the building becomes occupied they would have to appear before the Boards anyway; that there is no maintenance being done on this site; that all repairs are done in Spring Valley or Hillburn; and that a small office space is being rented.

Jay Greenwell, Land Surveyor, testified that they have requested 30 spaces for buses to park but there are only 27 buses being parked on site presently; that there are traffic cones and stripping in the middle that can park three cars or six buses; that the buses enter and exit at the far easterly point; that there are an additional 134 parking spaces in the front of the property; and the bus spaces are shown on page #2.

On August 28, 2007 the Zoning Board of Appeals consented to the Orangetown Planning board acting as Lead Agency for the SEQRA review process for this project. The Planning Board issued a Negative Declaration on January 23, 2008 (PB#07-55).

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.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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 outdoor storage variance for 30 buses as conditioned would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties; however if the building becomes occupied while the buses are being stored on site, a re-evaluation must be made by both the Planning Board and Zoning Board of Appeals.
2. The requested outdoor storage variance for 30 buses as conditioned would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There shall be no bus maintenance performed on premises.

3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.
4. The requested outdoor storage variance is not substantial. The number of buses has been limited to 30 and the period of time to store the buses is limited to the length of the current lease or three years.
5. The applicant leased the property so 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.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested outdoor storage variance is APPROVED with the FOLLOWING SPECIFIC CONDITIONS: (1) Outdoor storage is limited to thirty school buses; (2) No maintenance shall be performed on the buses at this location; (3) approval is for the life of the present lease (3 years); (4) the area of the building to be used to serve the subject property shall be disclosed; 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.

Mr. Mowerson made a motion to override #2 and 3 of the County of Rockland



Department of Planning letter dated March 31, 2008; which motion was seconded by Mr. Sullivan and carried unanimously.

The foregoing resolution to approve the application for the requested outdoor bus storage variance was presented and moved by Mr. Mowerson , seconded by Mr. Sullivan, and carried as follows: Mr. Doherty, aye; Mr. Mowerson, aye; Mr. Sullivan, aye; and Ms. Albanese, aye. Ms. Castelli was absent.

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 16, 2008

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

**BUILDIGN HEIGHT VARIANCE APPROVED**

To: John Farry  
21 Mary Street  
Tappan, New York 10983

ZBA # 08-32  
Date: 4 / 16 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-32: Application of John Farry for a variance from Chapter 43, Section 3.12, RG District, Group Q, Column 12 (Building Height: 13.47' permitted, 20.67 proposed) for an addition to an existing single-family residence. Premises are commonly known as 21 Mary Street, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.08, Block 3, Lot 32; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 16, 2008 at which time the Board made the determination hereinafter set forth.

John Farry and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

- 1 Architectural plans dated 6/22/07 with the latest revision date of 2/25/08, signed and sealed by Jane Slavin, Architect.
2. Plot plan signed and sealed by Jane Slavin, Architect based on survey by Edward T. Zaback, L.L.S.
3. A letter in support of the application signed by Dwight D. Joyce.
4. Six color pictures of houses in the area.

On advice of Mr. Michaels, Attorney 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) Regulations which does not require SEQRA environmental review. The motion was seconded by Mr.

Sullivan and carried as follows: Mr. Doherty, aye; Mr. Mowerson, aye; Mr. Sullivan, aye; and Ms. Albanese, aye. Ms. Castelli was absent.

Jane Slavin, Architect, testified that this is small three bedroom house with one bathroom and tiny rooms; that they are proposing to remove the roof and add a second floor; that the first level of the house would have a dining room, living room, kitchen and family room; that the new roof would be a hip roof; that the 10' side yard is what causes the need for the height variance; that 13.74' is permitted and they are proposing 20.67'; that this house sits back 31' from the street; that there are four ranch style houses on the street along with bi-levels and colonials; that she would like to submit pictures of the houses across the street and several other pictures of houses in the are that have received variances for height, yards and floor area ratio; that the house at 23 Virginia Street received a height variance of 29.11' in ZBA#90-12; that 31 Virginia Street received a 22.11' height variance; that 419 Kings Highway at the corner of Virginia received a floor area ratio variance of 45%; that they are proposing to go up over the existing foundation to add three bedrooms two bathrooms and a small laundry room; and that if the lot was 74' wide instead of the required 75' this application would be permitted a 20' building height.

Public Comment:

Paul Salmaggi, 15 Mary Street testified that he has no objections to the proposal and that it will add to the value of the properties in neighborhood.

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.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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 building height variance would 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 building height variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.
4. The requested building height variance although substantial is the only variance being requested and the property sits lower than the houses behind it which are sited higher on the uphill side and will be looking down on this property.
5. The applicant purchased the property so 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.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested building height variance is

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 building height variance was presented and moved by Mr. Doherty, seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Mr. Sullivan, aye; Mr. Doherty, aye; and Ms. Albanese, aye. Ms. Albanese was absent.

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 16, 2008

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 -R.O.

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

## DECISION

### **SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED**

To: James Ryan  
73 Lt. Cox Drive  
Pearl River, New York 10965

ZBA # 08-33  
Date: 4 / 16 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-33: Application of James Ryan for variances from Chapter 43, Section 3.12, RG District, Group Q, Columns 9 (Side Yard: 10' required, 8.1' proposed), and 10 (Total Side yard: 20' required, 19.6' proposed) (Section 5.21d Undersized lot applies) for an addition to an existing single-family residence. The premises is located at 73 Lt. Cox Drive, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.15, Block 3, Lot 19; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 16, 2008 at which time the Board made the determination hereinafter set forth.

James and Cheryl Ryan and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Home Addition/Renovation Ryan Residence" dated 11/5/07 with the latest revision date of 2/28/08, signed and sealed by Jane Slavin, Architect.
2. Copy of survey dated May 29, 2007 by Stephen F.Hoppe, P.L.S., Tappan, N.Y..

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

James Ryan testified that he and his wife are expecting a baby very soon; that they would like to extend the tiny kitchen.

Jane Slavin testified that there is an existing covered sun-porch at the rear of the house that they are proposing to convert into living space; that they would like to expand the existing galley kitchen by 6 ½'; that the existing kitchen is outdated and small; that they are also filling in a small area next to the sun-porch and that the side yard variance requested exists today but will be extended slightly if the proposal is approved.

#### 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.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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 side yard and total side yard variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The addition is in the rear of the house and is not extending beyond the existing non-conforming side yard.
2. The requested side yard and total side yard variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested side yard and total side yard variances although substantial are an existing condition.
5. The applicant purchased the property so 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 variances.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested side yard and total side yard variances is **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 side yard and total side yard variances was presented and moved by Ms. Albanese, seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Mr. Sullivan, aye; Mr. Doherty, aye; and Ms. Albanese, aye. Ms. Castelli was absent.

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 16, 2008

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 -R.O.

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

DECISION

**FRONT YARD, REAR YARD AND BUILDING HEIGHT VARIANCES  
APPROVED**

To: Josephine Doriguzzi  
60 North Serven Street  
Pearl River, New York 10965

ZBA # 08-34  
Date: 4 / 16 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08- 34: Application of Josephine Doriguzzi for variances from Chapter 43, Section 3.12, RG District, Group Q, Columns 8 (Front Yard: 25' required, 4.7' existing , 6.5' proposed), 11 (Rear Yard: 25' required, 14.1' existing, 14.7' proposed) and 12 (Building Height: 1' 4" permitted, 4' existing, 2'8" proposed) for an addition to an existing single-family residence. The premises are located at 60 North Serven Street, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.15, Block 5, Lot 43; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 16, 2008 at which time the Board made the determination hereinafter set forth.

Mario and Josephine Doriguzzi and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Home Renovation Doriguzzi Residence" dated 6/27/07 with the latest revision date of 2/27/08, signed and sealed by Jane Slavin, Architect.
2. Copy of survey dated May 29, 2007 by Stephen F. Hoppe, .L.S., Tappan, N.Y..

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

Josephine Doriguzzi testified that her parents purchased the house in 1939; that she purchased it in 1980 and raised four children in the house with one bathroom; that the house is almost original and needs to be upgraded.

Jane Slavin, Architect, testified that this house is tiny; that the lot is only 45' wide; that this is one of the little strip lots that exist in Pearl River; that many of these little lots have been combined and larger houses built on them; that the proposed addition is less non-conforming than the existing house; that the proposal includes a new living room and kitchen; that there will be a new staircase to the second level that meets code; that the existing staircase is about 2 ½' wide; and that the rear yard variance was dropped by the building inspector and a revised denial was issued; that the rear yard is 61'; that the existing front yards (2) are 16.3'; and 4.7'; and the proposed new front yard is 6.5'; that the building height that exists is 19' and proposed for the new addition is 17.8'.

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.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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 front yards and building height variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed front yard of 6.5' and proposed building height of 17.8' are less than the existing 4.7' front yard and 19' building height.
2. The requested front yards and building height variances would not have an adverse effect or impact on the physical or environmental conditions in the

neighborhood or district.

3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested front yard and building height variances although substantial are less than the pre-existing non-conforming conditions.
5. The applicant purchased the property so 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 variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested front yard (16.3' existing, 4.7' existing, and 6.5' proposed) and building height ( 19' existing, 17.8' proposed) variances is 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 front yard and



building height variances was presented and moved by Mr. Sullivan , seconded by Ms. Albanese, and carried as follows: Mr. Mowerson, aye; Mr. Sullivan, aye; Mr. Doherty, aye; and Ms. Albanese, aye. Ms. Castelli was absent.

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 16, 2008

**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

**DECISION**

**FLOOR AREA RATIO AND TOTAL SIDE YARD VARIANCES APPROVED**

To: Frank Zaccaro and Elizabeth Bourmatnov  
43 Riverside Drive  
Blauvelt, New York 10913

ZBA # 08-35  
Date: 4 / 16 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-35: Application of Frank Zaccaro and Elizabeth Bourmatnov for variances from Chapter 43, Section 3.12, R-15 District, Group M, Columns 4 ( Floor Area Ratio: .20 permitted, .2079 proposed), and 10 (Total Side Yard: 50' required, 40.45' proposed) for an addition to an existing single-family residence. The premises are located at 43 Riverside Terrace, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 69.20, Block 1, Lot 74; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 16, 2008 at which time the Board made the determination hereinafter set forth.

Frank Zaccaro, Elizabeth Bourmatnov and Kier Levesque. Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated January 16, 2008, signed and sealed by Kier Levesque, Architect.
2. Three pictures of the Zaccarro/ Bourmatnov house.
3. A petition in support of the application signed by ten neighbors.
4. Eighteen pictures of houses in the neighborhood with similar additions.

On advice of Mr. Michaels, Attorney 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) Regulations which does not require SEQRA environmental review. The motion was seconded by Mr. Sullivan and carried as follows: Mr. Doherty, aye; Mr. Mowerson, aye; Mr. Sullivan, aye; and Ms. Albanese, aye. Ms. Castelli was absent.

Kier Levesque, Architect, testified that the house is a one and a half story cape; that the

lot has an irregular shape; that the property was subdivided several years ago; that they are planning to add a two-car garage with a family room behind it and reconfigure the kitchen to make a usable space; that they are also planning on adding four bedrooms upstairs ; that because of the shape of the lot even if the addition was added to rear they would need a rear yard variance; that the existing second floor has slanted ceilings and minimum headroom; that the proposed addition would bring the upstairs into compliance for ingress/egress; and that the addition is only 137 sq. ft. over the permitted floor area ratio.

Elizabeth Bourmatnov testified that they purchased the house in 2002 and since that time they have had three daughters; that all three are under the age of four and currently share one bedroom; that they would like to separate the girls so that they would sleep better; and that the proposed new bedrooms are not very large.

Frank Zaccaro testified that he built the roof structure over the basement entrance after the last big storm because they got a lot of water in the basement; that there was an aluminum roof over the area but he replaced it with the current roof structure to match the rest of the house; and that if they need to remove the structure they will.

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.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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 floor area ratio and total side yard variances as conditioned would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is oddly shaped and the placement of the addition allows the applicant to maintain the required side yard.
2. The requested total side yard and floor area ratio variances as conditioned would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances. The shape of the property is odd and almost any addition would require a yard variance.
4. The requested variances are not substantial.
5. The applicant purchased the property so 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.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested floor area ratio and total side yard variances is **APPROVED**; with the **SPECIFIC CONDITION** that the roof structure

over the basement entrance be removed; 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 and total side yard variances was presented and moved by Mr. Doherty, seconded by Ms. Albanese, and carried as follows: Mr. Mowerson, aye; Mr. Sullivan, aye; Mr. Doherty, aye; and Ms. Albanese, aye. Ms. Castelli was absent.

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 16, 2008

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS

TOWN CLERK  
HIGHWAY DEPARTMENT

SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR –R.O.

ASSESSOR  
DEPT. of ENVIRONMENTAL  
MGMT. and ENGINEERING  
FILE,ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR

## DECISION

### **SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED AS MODIFIED**

To: Richard and Linda Quelch  
186 Ridge Street  
Pearl River, New York 10965

ZBA # 08-36  
Date: 4 / 16 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-36: Application of Richard and Linda Quelch for variances from Chapter 43, Section 3.12, RG District, Group Q, Column 9 (Side Yard: 10 required, 4.3' existing, 2' proposed), 10 (Total Side Yard: 20' existing, 14' existing, 26' proposed) and 12 (Building Height: 1'4" permitted, 5.7' existing, 14' 6" proposed) for an addition to an existing single-family residence. The premises are located at 186 Ridge Street, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 72.08, Block 1, Lot 50; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 16, 2008 at which time the Board made the determination hereinafter set forth.

Richard Quelch appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Proposed Addition Quelch" dated 11/8/07, signed and sealed by Robert Murphy, Architect.
2. Bulk table.
3. Copy of survey.
4. One letter in support of the application.

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

Richard Quelch testified that he has owned the house since 1979; that it is a small cape cod style house on a 50' x 230' lot; that he and his wife raised three kids in the house; that only one son is left at home now; that he would like to do this addition because they plan on retiring in this house and want everything on one level; that they are proposing two bedrooms, a family room and kitchen on one level and the deck off the rear of the house; that he placed the stairs from the deck on that side of the house because on the other side is the entrance to the basement and the driveway turn-around; and that he could reconfigure the deck and stairs to maintain the existing 4.3' side yard.

#### 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.

#### FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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 side yard, total side yard and building height variances as modified would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed deck shall be in line with the existing 4' 3" side yard and the applicant has agreed to move the proposed stairs to the rear of the deck.
2. The requested side yard, total side yard and building height variances as modified would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested variances although substantial are not increasing the existing non-conforming condition.
5. The applicant purchased the property so 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 variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested side yard, total side yard and building height variances as modified is APPROVED with the condition that the applicant move the proposed deck to keep it in-line with the existing non-conforming 4'3" side yard; 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 side yard, total side yard and building height variances as modified was presented and moved by Mr. Doherty, seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Mr. Sullivan, aye; Mr. Doherty, aye; and Ms. Albanese, aye. Ms. Castelli was absent.

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 16, 2008

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 -J.P.

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

DECISION

**STREET FRONTAGE, REAR YARD AND BUILDING HEIGHT VARIANCES  
APPROVED**

To: Donald and Karen Steinmetz  
1020 Route 9W  
Upper Grandview, New York 10960

ZBA # 08-37  
Date: 4 / 16 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-37: Application of Donald and Karen Steinmetz for variances from Chapter 43, Section 3.12, R-22 District, Group I, Columns 7 (Street Frontage: 75' required, 50.2' existing), 11 (Rear Yard: 45' required, 30.2' existing, 14.3' proposed), and 12 (Building Height: 10.725' permitted, 27' proposed) for and addition to an existing single-family residence. The premises are located at 1020 Route 9W, Upper Grandview, New York, and are identified on the Orangetown Tax Map as Section 71.09, Block 1, Lot 32; R-22 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 16, 2008 at which time the Board made the determination hereinafter set forth.

Donald and Karen Steinmetz, Jonathan Foster, Architect and Ken DeGennaro, Engineer appeared and testified.

The following documents were presented:

1. Architectural plans labeled dated January 15, 2006 signed and sealed by Jonathan Foster, Architect.
2. Site plan dated 8/10/07 with the latest revision date of 2/25/08 signed and sealed by Brian Brooker, P.E..
3. A cover letter dated February 25, 2008 from Kenneth DeGennaro, P.E.
4. Planning Board Decision #07-70 dated December 12, 2007
5. A memorandum dated December 12, 2008 from John Giardiello, P.E. Director, Office of Building, Zoning and Planning Administration and Enforcement.
6. A letter dated March 27, 2008 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
7. A letter dated March 10, 2008 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
8. A letter dated March 13, 2008 from the County of Rockland Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
9. A letter dated April 8, 2008 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
10. A letter in support of the application from an adjacent property owner.

On advice of Mr. Michaels, Attorney 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) Regulations which does not require SEQRA environmental review. The motion was seconded by Mr. Sullivan and carried as follows: Mr. Doherty, aye; Mr. Mowerson, aye; and Ms. Albanese, aye. Ms. Castelli was absent.

Ken DeGennaro, Engineer, testified that the house is located in a critical environmental area; that the application requires three variances; that the street frontage is not changing; that house is set back off the street over 300'; that the building height is proposed at 33.59' and was determined by the rear property line; that the existing house has a non-conforming rear yard that the rear of the house is the easiest place to build; that the proposed addition is approximately 23' by 32' in the rear of the house and 15' by 13' on the south side of the house; that a small portion of the north side of the house is to be removed; that there are no existing structures nearby that are impacted by the proposed addition; that the houses to the rear are on Tweed Boulevard and are high above this structure; that the proposed building height is lower than the existing building height; and that most of the addition is in the rear and side of the house and will not be visible from Route 9W.

Jonathan Foster, Architect, testified that the proposed addition is adding more space to the level of the house that is living space; that a new bedroom, bathroom, kitchen and deck are being added; that the addition was sited in the rear of the house for practicality, aesthetics, ease of construction and circulation within the dwelling; that if the addition was constructed on the other side of the house the floor would be 22' off the ground.

Donald Steinmetz testified that the grade of the property determined the location of the addition; and that the beginning of the driveway is shared.

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.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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 street frontage, rear yard and building height variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
2. The requested street frontage, rear yard and building height variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested street frontage, rear yard and building height variances although substantial is an existing condition that is not changed by the addition of the proposed dormer.
5. The applicant purchased the property so 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 variances.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested street frontage, rear yard and building height variances is **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 street frontage, rear yard and building height variance was presented and moved by Mr. , seconded by Ms. Albanese, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Ms. Albanese, aye.  
Mr. Sullivan was absent.

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 16, 2008

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 –N.A.

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

DECISION

**STREET FRONTAGE, TOTAL SIDE YARD AND BUILDING HEIGHT  
VARIANCES APPROVED**

To: Christopher Failing  
48 Kinsley Grove  
Pearl River, New York 10965

ZBA # 08- 38  
Date: 4 / 16 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-38: Application of Christopher Failing for variances from Chapter 43, Section 3.12, R-15 District, Group M, Columns 7 (Street Frontage: 75' required, 50' existing), 10 (Total Side Yard: 50' required, 43.7' proposed), and 12 (Building Height: 15.35' permitted, 22' proposed) for the construction of a new single-family residence. The premises are located at 48 Kinsley Grove, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.19, Block 1, Lot 31; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 16, 2008 at which time the Board made the determination hereinafter set forth.

Jamie Failing, Robert Hoene, Architect, Mark Comito, Contractor, and Kevin Conway, Attorney, appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Proposed Residence for Chris and Jamie Failing" dated February 28, 2008, signed and sealed by Robert Hoene, Architect.
2. Copy of survey dated February 14, 2008 by Robert Rahnefeld, P.L.S., Pearl River, N.Y..
3. Five letters in support of the application.
4. Six pictures of the existing house.

Kevin Conway, Attorney, testified that there was house fire that destroyed a portion of the house; that the applicants have been living off-site since the fire; that this house is in a remote area next to watershed property; that the need for the street frontage variance is an existing condition; that the total side yard and building height variances will not effect any neighbors because of the way the house is situated on the lot; that the applicants are under a time constraint because of the insurance payout and they must rebuild within six months; that they have been to the Architect and Community Review Board and received their approval; that they have been off-site already for four months; and that they are hoping for a speedy approval so that they can get back into the house soon.

Robert Hoene, Architect, testified that the proposed addition is on the side of the garage; that the house is a raised ranch that they are converting into a center hall colonial; that they are planning to use the existing foundation and enlarge it slightly; that the street frontage is an existing condition; that the height of the building will be six feet higher than the existing house; that the neighbors to the west are at least 400 feet away; that the lot marked lot 4 is a colonial and that the additional expansion is at the rear of the house by four feet.

Jamie Failing testified that there are four people in her family and that they never determined the cause of the fire.

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

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.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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 street frontage, total side yard and building height, variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Other houses in the neighborhood have added additions that are similar to this new construction.
2. The requested street frontage, total side yard and building height variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested street frontage, total side yard and building height variances are not substantial.
5. The applicant purchased the property so 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 variances. The house fire was not self-created.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested street frontage, total side yard and building height variances is **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 street frontage, total side yard and building height variances was presented and moved by Mr. Sullivan, seconded by Mr. Doherty, and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Doherty, aye; and Mr. Sullivan, aye. Ms. Castelli was absent.

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 16, 2008

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
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CHAIRMAN, ZBA, PB, ACABOR































