

MINUTES
ZONING BOARD OF APPEALS

APRIL 6, 2011

MEMBERS PRESENT:	WILLIAM MOWERSON DANIEL SULLIVAN JOAN SALOMON NANETTE ALBANESE PATRICIA CASTELLI
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ABSENT:	NONE
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ALSO PRESENT:	Dennis Michaels, Esq. Ann Marie Ambrose, Cheryl Coopersmith,	Deputy Town Attorney Official Stenographer Chief Clerk
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This meeting was called to order at 7: 00 P.M. by Mr. Mowerson, Chairman.

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:

155 CORPORATE DRIVE 73.19 / 1 / 1; LO zone	Continued to the May 18, 2011 Meeting	ZBA#10-92
MARKS/GARVEY 75.13 / 1 / 2; R-40 zone	Postponed to April 20, 2011 Meeting	ZBA#11-02

NEW ITEM:

YOUNG 72.08 / 2 / 28; R-15 zone	Approved	ZBA#11-24
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ADDITIONAL 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 applications: “What’s Shakin” Conditional Use Permit, 60 Dutch Hill Road Orangeburg,, N.Y., 74.10 / 1/ 70; CO 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 11:30 P.M.

Dated: April 6, 2011

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

DECISION

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

**To: Andrew and Karen Young
185 South Middletown Road
Pearl River, New York 10965**

**ZBA # 11-24
Date: April 6, 2011**

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-24: Application of Andrew and Karen Young for variances from Chapter 43 (Zoning), Section 3.12, Group M, Column 9 (Side Yard: 20’ required, 13.1’ proposed), 11 (Rear Yard: 35’ required, 9.5’ existing, no change) and 12 (Building Height: 20’ permitted, 21.9’ proposed) for an addition to an existing single-family residence. The premises are located at 185 South Middletown Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 72.08, Block 2, Lot 28 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 6, 2011 at which time the Board made the determination hereinafter set forth.

Andrew Young appeared and testified. Mr. Young stated that his family has lived in the house for 12 years. He has 3 children and the existing house has 3 bedrooms and one bathroom. The living conditions are tight and he would like to expand the house with an addition to the second floor. There are other houses in the area with similar additions to their houses. Most other houses in the neighborhood are setback only 25 feet from the street while his house is low and setback 100 feet from the street. In addition, his house,

originally built as a barn in the 1960's, sits sideways on the lot, with the front door facing south.

The following documents were presented:

1. Architectural plans dated September 28, 2010 (3 pages) signed and sealed by Kier B. Levesque, Architect.

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 Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye.

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 side yard, rear yard and building height variances 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 side yard, rear yard, and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area.
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 side yard, rear yard and building height variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar additions have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, 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 side yard, rear yard 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 side yard, rear yard, and building height variances was presented and moved by Mr. Mowerson, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; .Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

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 6, 2011

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By _____
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT	TOWN CLERK
ZBA MEMBERS	HIGHWAY DEPARTMENT
SUPERVISOR	ASSESSOR
TOWN BOARD MEMBERS	DEPT. of ENVIRONMENTAL
TOWN ATTORNEY	MGMT. and ENGINEERING
DEPUTY TOWN ATTORNEY	FILE,ZBA, PB
OBZPAE	CHAIRMAN, ZBA, PB, ACABOR
BUILDING INSPECTOR –R.A.O.	