

MINUTES
ZONING BOARD OF APPEALS
DECEMBER 1, 2010

MEMBERS PRESENT: WILLIAM MOWERSON
 JOAN SALOMON
 NANETTE ALBANESE
 PATRICIA CASTELLI

ABSENT: DANIEL SULLIVAN

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

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

ROONEY 64.17 / 2 / 19; R-15 zone	APPROVED WITH SPECIFIC DRAINAGE CONDITIONS	ZBA#10-67
-------------------------------------	---	-----------

NEW ITEMS:

622 ROUTE 303 65.14 / 1 / 11; LI/LIO zone	STREET FRONTAGE VARIANCE FOR LOTS #1 & #2	ZBA#10-90
--	--	-----------

622 ROUTE 303 PERFORMANCE STANDARDS 65.14 / 1 / 11; LI/LIO zone	APPROVED FOR PHASE I	ZBA#10-91
---	----------------------	-----------

155 CORPORATE DRIVE 73.15 / 1 / 18 & 73.19 / 1 / 1; LO zone	CONTINUED	ZBA#10-92
--	-----------	-----------

BROUDY 64.20 / 1 / 4.3; R-40 zone	REAR YARD AND SIDE YARD VARIANCES APPROVED AS MODIFIED	ZBA#10-93
--------------------------------------	--	-----------

PETRIELLA 69.09 / 1 / 25; R-15 zone	FRONT YARD AND SIDE VARIANCES REAFFIRMED REAR YARD VARIANCE APPROVED	ZBA#10-94
--	--	-----------

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: St. John's Malankara Church Plan, 331 Blaisdell Road Orangeburg, N.Y., 73.20 / 1 / 31;

LIO 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 11:15 P.M.

DECISION

ACCESSORY STRUCTURE DISTANCE VARIANCE APPROVED WITH CONDITIONS

To: Chris and Maria Rooney

ZBA # 10-67

29 Van Zandt Drive

Date: September 22, 2010

Pearl River, New York 10965

December 1, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-67: Application of Chris and Maria Rooney for a variance from Chapter 43 (Zoning), R-15 District, Section 5.227 (Accessory Structure: 5' setback required from rear and side yards, 3' rear yard set back existing) for and existing greenhouse structure at an existing single-family residence. The premises are located at 20 Van Zandt Drive, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 64.17, Block 2, Lot 19; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, September 22, 2010 and November 17, 2010 at which time the Board made the determination hereinafter set forth.

Chris Rooney and Chris Papa, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Plot plan, Plan, Section and Details Rooney Residence" dated 9/1/10 signed and sealed by Christopher V. Papa, Architect.
2. Copy of plans labeled: Map of Property #20 Van Zandt Drive" by Stephen F. Hoppe, L.S...
3. Revised plans (no new revision date) with storm flow calculations, storm drainage, actual storm flow and drywell computation by Christopher V. Papa, Architect.
4. Calculations dated November 9, 2010 from Chris M. Sideris, P.E. with Storm drain rings attached.
5. A memorandum dated October 26, 2010 from Bruce Peters, P.E., Department of Environmental Management and Engineering, Town of Orangetown (DEME).

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Ms. Salomon 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: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Mr. Sullivan was absent.

At the September 22, 2010 Chris Rooney passed pictures around to show the sunroom and testified that he went to the home show nine years ago and purchased their model sunroom structure; that it is the type of structure that would normally meet the side of the house but he ordered an extra side so that it could be installed separate and away from the house; that he wanted to use it as a pool cabana and to store his pool stuff in out of season; that the structure does have electric; that he installed the pool three feet from the property line; that the neighbor was complaining about water dripping into his trees from the sunroom; that his neighbor has a waterfall and bushes and doesn't want any water run-off onto his property; that he has two sheds on his property and can remove the south side shed; and that he would like a continuance to bring in a drainage plan for review.

Chris Papa, Engineer, testified that a 6" gutter on the small roof area could handle the run-off; that small ice breakers on the roof would cut down on any ice falling onto the neighbor's property; that the gutters could be directed underground to the drainage easement; or a drywell could be installed on the property.

Public Comment:

John Gliemann, 427 Erhardt Road, testified that he discovered that Mr. Rooney's landscapers had no concern for any property other than Mr. Rooney; that they were trimming his Maple trees and disposing of the branches onto his property; that the wall that he installed before his pool is damaged and has not been fixed; that three years ago the front wall of the waterfall that he built for his deceased wife fell down because of water damage from his property; that the roof line of this building hangs over onto his property and the inner wall was pushed out; that Paul Witte asked for meeting with Mr. Rooney three times and he did not respond; that gutters alone will not solve this problem; that he has to refill the waterfall every four days; and that the water fall is very special to him because it was for his wife and he lost her in 2008.

Maureen O'Neill, 42 Van Zandt Drive, testified that in March of 2004 Mr. Rooney stood and swore to tell the truth and uphold the law and it is ironic that he didn't know that he needed a permit; and he is aware of the law.

At the meeting of December 1, 2010 meeting the following items were submitted and reviewed:

1. Revised plans (2 pages) signed and sealed by Christopher Papa, Architect, no revision date.
2. Drainage calculations dated November 29, 2010 signed and sealed by Chris M. Sideris, P.E.
3. Spec sheet for LS-1633 Landsaver chambers.
4. A letter to the Zoning Board of Appeals stating that the Drainage Calculations are acceptable signed by Bruce Peters, P.E., Department of Environmental Management and Engineering, Town of Orangetown.

Christopher Rooney appeared and testified.

Christopher Rooney testified that a 6" gutter will be added to the overhang on the sunroom; that he owns three feet of property on the side of the sunroom closest to Mr. Gliemann's property; that the sunroom has existed since 2002; that he is adding a larger detention system than is required by the 100 year flood; that he has spent thousands of dollars having the property re-surveyed and on the architectural and engineering plans; that all in all when the project is complete with the tanks installed it will cost between 15 and 18 thousand dollars; that he ended up before the Board because Mr. Gliemann filed a complaint five years after the sunroom was built because the waterfall that he built on his property got damaged; that Mr. Gliemann's property is at a lower elevation than his own; and that he is trying to make things right.

Public Comment:

John Gliemann testified that the sunroom is hanging over onto his property; that when he built his garage he did it within the Zoning Code; that Mr. Rooney should have to follow the rules also; that he did complain about this problem eight years ago but then his wife got sick and he was busy dealing with her illness and couldn't worry about this; that since then his wife has passed and he has the time to deal with the problem now.

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. Albanese 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 accessory structure set back variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Drainage mitigation is planned that meets the specifications of the DEME for the existing accessory structure.
2. The requested accessory structure set back variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Drainage mitigation is planned that meets the specifications of the DEME for the existing accessory structure.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested accessory structure set back variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Drainage mitigation is planned that meets the specifications of the DEME for the existing accessory structure.
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 accessory structure set back variance is **APPROVED** with the following **SPECIFIC CONDITION** that the drainage system be installed to the specifications of DEME, Town of Orangetown letter dated 11/29/10; 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 accessory structure set back variance with the drainage plan approved by DEME dated 11/29/2010 was presented and moved by Ms. Salomon, seconded by Mr. Mowerson and carried as follows: Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, 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.

DECISION

STREET FRONTAGE VARIANCE FOR LOT #1 AND Lot #2 APPROVED

To: Steven Grogg (622 Route 303)

ZBA # 10-90

Mc Laren Engineering Group
100 Snake Hill Road
West Nyack, New York 10994

Date: December 1, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-90: Application of 622 Route 303 for a variance from Chapter 43 (Zoning), Section 3.12, LIO District, CC Group, Columns 7 (Street Frontage: 150' required, 89' provided for lot #1, 53.5' provided for lot #2) for the construction of a new building. The

premises are located at 622 Route 303, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 65.14, Block 1, Lot 11; LI/LIO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 1, 2010 at which time the Board made the determination hereinafter set forth.

Brian Quinn, Attorney, Steven Grogg, P.E., and Jeff Davis, Operation Engineer, appeared and testified.

The following documents were presented:

1. Site plan dated 9/1/10.
2. Grading plan dated 9/1/10.
3. Lighting plan dated 10/22/10.
4. Overall site plan dated 9/1/10.
5. Existing conditions map dated 9/1/10.
6. A letter dated December 1, 2010 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
7. A letter dated October 29, 2010 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
8. A letter dated October 5, 2010 from the Town of Clarkstown Planning Board signed by Shirley Thormann, Chairwoman.

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 since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved agencies, including the ZBA who consented or did not object the Planning Board acting as Lead Agency for the foregoing application, pursuant to coordinated review under the State Environmental Quality Review Regulations §617.6 (b)(3); and since the Planning Board conducted (SEQRA) review and on October 13, 2010, rendered environmental determination of no significant adverse environmental impacts to result from the proposed land use action (i.e., a “ Negative Declaration” or “Neg Dec”), the ZBA is bound by the Planning Board’s Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations §617.6 (b) (3). The motion was seconded by Ms.Castelli and carried as follows: Ms. Salomon, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Mr. Sullivan was absent.

Brian Quinn, Attorney, testified that they have no problem with comment #1 of the letter from Rockland County Planning; that comment #3 is the same comment that was sent to the Planning board; that John Collins was present at the Planning Board meeting and he did a study for the traffic to the Mall and Shop Rite; that he testified to the impact of the proposed buildings; that the Planning Board requested a written report and that supplemental response is being done; and Mr. Quinn submitted the transcript from the Planning Board meeting; and further testified that the proposal meets the Town requirements for drainage; that a Neg Dec was issued by the Planning board; that a traffic study was done and reviewed by the DOT; that they determined that this proposal is the best location for ingress/egress with the installation of a traffic light and left turn lane to the entrance.

Steve Grogg, P.E., testified that the old drive-in theatre site was more recently used as a driving range and miniature golf; that there are 44 acres; that they are proposing to split the lot into three lots; that the rear lot is lot #1 and would have the Fed Ex warehouse; that the Town did not want a dedicated public road and the drive is being incorporated into the rear lot with easements for utilities for lots 2 and 3; that it will be a 50’ private drive; that lots 2 and 3 have frontage and lot #1 has some frontage because of the driveway but it doesn’t meet the 150’ width requirement; that the stormwater regulations require no increase at peak rate of run-off; that the peak flow does not increase after development; that the DEC requires that the first inch of rainfall to be released slower that it should decrease over the existing conditions; that the stormwater SPEDES permit

will be complied with; and that over 300 acres drain into the stream..

Public Comment:

Kimball Parker, 37 Cortwood Village, Orangeburg, testified that an 89' opening to 303 is not good; that the old drive-in had an entrance and exit which was safer; that sight lines should be looked into; that a study was going to be conducted 15 years ago under Pelligrini; that eventually Route 303 needs to be fixed; that he owns the abutting property and a jug handle on his property would make this proposal safer; that water from this development is going to end up on his property; that the Board should consider an exit and entrance; that something should be considered to allow development of his property; that Lake Ontora is piped under from the Toyota property; that he was told they can do this project based on prior use; and that this is the project that will be the straw that broke the camels back.

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. Albanese 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 street frontage variances for lot #1 and Lot #2 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar conditions exist along Route 303 because of the depth of existing lots.
2. The requested street frontage variances for lot #1 and Lot #2 will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar conditions exist along Route 303 because of the depth of existing lots.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested street frontage variances for lot #1 and Lot #2, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar conditions exist along Route 303 because of the depth of existing lots.
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 street frontage variances for lot #1 and #2 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 yard variances for lot #1 and Lot #2 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. 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.

DECISION

PERFORMANCE STANDARDS FOR PHASE I APPROVED WITH CONDITIONS

To: Steven Grogg (622 Route 303)

ZBA # 10-91

Mc Laren Engineering Group
100 Snake Hill Road
West Nyack, New York 10994

Date: December 1, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-91: Application of 622 Route 303 for a variance from Chapter 43 (Zoning), LIO District, Section 4.12 (Performance Standards Review for Phase I) for the construction of a new building for warehouse and distribution. The premises are located at 622 Route 303, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 65.14, Block 1, Lot 11; LI/LIO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 1, 2010 at which time the Board made the determination hereinafter set forth.

Brian Quinn, Attorney, Steven Grogg, P.E., and Jeff Davis, Operation Engineer, appeared and testified.

The following documents were presented:

1. Site plan dated 9/1/10.
2. Grading plan dated 9/1/10.
3. Lighting plan dated 10/22/10.
4. Overall site plan dated 9/1/10.
5. Existing conditions map dated 9/1/10.
6. A letter dated December 1, 2010 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
7. A letter dated October 29, 2010 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
8. A letter dated October 5, 2010 from the Town of Clarkstown Planning Board signed by Shirley Thormann, Chairwoman.
9. A letter dated November 15, 2010 from Scott Burton, Director, Department of Environmental Management and Engineering, Town of Orangetown.
10. A memorandum dated 10/26/2010 from Michael Bettman, Orangetown Fire Inspector.

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 since the application entails the ZBA engaging in a review to determine compliance with technical requirements, this application is exempt from environmental review under the State Environmental Quality Review Act pursuant to SEQRA Regulation §617.5 (c)(28). The motion was seconded by Ms. Castelli and carried as follows: Ms. Salomon, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Mr. Sullivan was absent.

Jeff Davis, Operation Engineer, testified that the carts used in the operation are rechargeable carts; that the smaller trucks drive into the building to load up and to unload; that loading docks are for the larger trucks; that they will not be washing trucks at this facility; that items are not stored in the building; it is an in and out type service; and that the trucks are owned by individuals.

Steve Grogg, Engineer, testified that they would return for performance standards for Phase II because it is not being built immediately and they don't have the specific information that is necessary for the Performance Standards review.

Public Comment:

Kimball Parker, 37 Cortwood Village, Orangeburg, testified that he has questions regarding the SEQRA process and wanted to know how much radiological material would be stored in the warehouse.

The Performance Standards Resume of Operations and Equipment, and the Fire

Prevention Supplement completed by the applicant were thereupon reviewed in detail.

The Board members made a personal inspection 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:

1. Based upon the information contained in applicant's Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated 10/26/10 from Michael Bettmann, Chief Fire Inspector, Bureau of Fire Prevention of the Town of Orangetown, the memorandum dated 11/15/10 from Scott Burton, Director of the Orangetown Department of Environmental Management and Engineering (DEME) concluding that there is no reasonable doubt as to the likelihood of applicant's conformance to the Performance Standards, the other documents presented to the Board and the testimony of applicant's representatives, the Board finds and concludes that conformance with the Performance Standards set forth in Orangetown Zoning Code Section 4.1 will result sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to compliance with the orders, rules and regulations of Orangetown's Office of Building, Zoning & Planning Administration & Enforcement (OBZPAE) and the Orangetown Bureau of Fire Prevention, and all other departments having jurisdiction of the premises.

DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for Performance Standards Conformance for Phase I is **APPROVED** with the **SPECIFIC CONDITION** that the applicant adhere to all of the requirements set forth by the Town of Orangetown's Bureau of Fire Prevention, DEME and OBZPAE; **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 seeking a determination of conformance to the Performance Standards for Phase I was presented and moved by Mr. Mowerson, seconded by Ms. Salomon, and carried as follows: Mr. Mowerson, aye; Ms. Salomon, aye; and Ms. Albanese, aye; and Ms. Castelli, 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.

DECISION

SIDE YARD AND REAR YARD VARIANCES APPROVED AS MODIFIED

To: Ted Broudy

ZBA # 10-93

267 Townline Road
West Nyack, New York 10994

Date: December 1, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-93: Application of Theodore and Carol Broudy for variances from Chapter 43 (Zoning), Section 3.12, R-40 District, Group E, Columns 9 (Side Yard: 30' required, 5' proposed) and 11 (Rear Yard: 50' required, 5' proposed) for the installation of a shed at an existing single-family residence. The premises are located at 267 Townline Road, West Nyack, New York, and are identified on the Orangetown Tax Map as Section 64.20, Block 1, Lot 4.3; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 1, 2010 at which time the Board made the determination hereinafter set forth.

Carol Broudy appeared and testified.

The following documents were presented:

1. Plot plan showing the placement of the proposed shed.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Ms. Albanese 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: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Mr. Sullivan was absent.

Carol Broudy testified that they would like to install a shed to house their pool equipment; that they need a variance because in order to meet the code the shed would have to be in the middle of the yard; that there is a fence and trees along the driveway; that there is wetland area on Walsh's property; that the other side of that area has trees and plantings; that she would like to keep the shed five feet from the rear and side yards but if she has to move it to ten feet from the rear and side, she 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.

Mr. Mowerson made a motion to close the Public Hearing which motion was seconded by Ms. Albanese 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 rear and side yard variances as modified will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is oddly shaped and similar sheds have been constructed in the area.
2. The requested rear and side yard variances as modified will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property is oddly shaped and similar sheds 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 rear and side yard variances as modified, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The property is oddly shaped and similar sheds 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 rear yard and side yard variances as **MODIFIED** to 10' rear yard and 10' side yard 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 rear yard and side yard variances as MODIFIED to 10' rear and 10' side yards was presented and moved by Ms. Castelli, seconded by Ms. Albanese and carried as follows: Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, 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.

DECISION

**FRONT YARD AND SIDE YARD VARIANCES RE-AFFIRMED;
REAR YARD VARIANCE APPROVED**

To: Andrew McKeon (Olga Petriella)

ZBA # 10-94

3 Terrence Court
Pearl River, New York 10965

Date: December 1, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-94: Application of Olga Petriella for variances from Chapter 43 (Zoning), Section 3.12, R-15 District, Group M, Columns 8 (Front Yard: 30' required, 27.5' existing) and 9 (Side Yard: 20' required, 15' existing:: variances granted in ZBA#71-124) and 11 (Rear Yard: 35' required, 32' proposed) for an existing one story addition built in 1993 at an existing single-family residence. The premises are located at 8 Orchard Lane, Nanuet, New York, and are identified on the Orangetown Tax Map as Section 69.06, Block 1, Lot 25; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 1, 2010 at which time the Board made the determination hereinafter set forth.

Andrew McKeon appeared and testified.

The following documents were presented:

1. Architectural plans dated 09/28/2010 (2 pages) signed and sealed by Clifford Herbst, P.E..
2. Site plan dated 09/29/2010 signed and sealed by Clifford Herbst, P.E..

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Ms. Albanese 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: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Mr. Sullivan was absent.

Andrew McKeon testified that he is appearing as an agent for his aunt; that his aunt passed away in April and his two cousins do not live in the area; that in 1971 his aunt and uncle built a garage in 1971 and went to the Zoning Board for a variance, ZBA#71-124 ; that his uncle passed away in the 80's and in 1993 his aunt added to the kitchen and built a small deck; that the contractor she used did not get a permit; that he is before the Board to rectify this error and get a variance for the additional two foot setback into the rear yard that this addition needs; that his cousins would like to sell the house and they need to legalize this addition in order to accomplish that.

Public Comment:

No public comment.

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

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

Mr. Mowerson made a motion to close the Public Hearing which motion was seconded by Ms. Albanese 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 reaffirmation of the front and side yard variances and the requested rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The addition has existed for 17 years and it would be very costly to the family to make the house conform for the sale.
2. The requested reaffirmation of the front and side yard variances and the requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The addition has existed for 17 years and it would be very costly to the family to make the house conform for the sale.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested rear yard variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The addition has existed for 17 years and it would be very costly to the family to make the house conform for the sale.
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 reaffirmation of the front yard and side yard variances and the requested rear yard 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 reaffirmation of the front and side yard variances and the requested rear yard variance was presented and moved by Ms. Albanese, seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, 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: December 1, 2010

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 -M.M.

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

