

MINUTES
ZONING BOARD OF APPEALS
February 4, 2009

MEMBERS PRESENT: PATRICIA CASTELLI
 DANIEL SULLIVAN
 NANETTE ALBANESE

ABSENT: WILLIAM MOWERSON

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 Acting Chairperson Ms. Castelli.

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:

KWON 74.17 / 1 / 16; R-22 zone	FLOOR AREA RATIO, FRONT YARD, REAR YARD VARIANCES APPROVED AS MODIFIED	ZBA#09-06
SAPIENZA 65.20 / 1 / 7; R-40 zone	CONTINUED	ZBA#09-08
ART STUDENTS LEAGUE 75.13 / 1 / 1 & 74.16 / 1 / 9; R-40 zone	POSTPONED	ZBA#09-09

NEW ITEMS:

DECAPRIO 68.14 / 2 / 85; R-15 zone	SIDE YARD VARIANCE APPROVED	ZBA#09-10
HOGAN 68.20 / 2 / 57; RG zone	SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#09-11
BOSCO 69.18 / 1 / 76; R-15 zone	FLOOR AREA RATIO VARIANCE APPROVED	ZBA#09-12

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application: Creston Electronics Re-subdivision Plan, Ramland Road, Orangeburg, New York, 77.05/1/ 36 & 37; LIO zone; Creston Electronics Site Plan and Conditional Use, Ramland Road, Orangeburg, New York, 77.05/1/ 36 & 37; LIO zone; and FURTHER RESOLVED, to

- Architect.
2. Cover letter dated 1/22/09 with revised plans not dated.
 3. A letter in support signed by Gilbert Marin, 90 Monmouth Court, Orangeburg, New York.
 4. Six pictures of the house and neighboring house to the rear.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Mr. Doherty 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) (7); which does not require SEQRA environmental review. The motion was seconded by Mr. Sullivan and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan; aye; Ms. Castelli, aye; and Mr. Doherty, aye.

David Kwon testified that he purchased his house in 1972; that he has two children that are graduating college and coming back home to live until they get married; that he wants to retire in this house but needs more room; that the existing bedrooms and closets are very small; that the house needs new windows, siding and roof; that he would like to add on twelve feet to rear of the house to accommodate his family; and that the deck can be relocated.

Youmi Jang testified that the floor area ratio was not calculated correctly; that it is not 30.9% that is proposed but 26%; that the addition is 1,011 sq. ft.; that the lot is 14,331 sq. ft.; that they could remove the front porch if that is what the Board wants to see; and they would like a continuance to meet with the building inspector and straighten out the measurements.

Public Comment:

Gilbert Marin, 90 Monmouth Court, abutting property owner to the rear, testified that he doesn't know the Kwon family; that he objects to the extension as it is proposed; that it is too close and encroaches on his backyard; that he has very little privacy; that neither of them have large lots; that the congestion is disturbing; that the drainage is a concern; that the leaders should be diverted to the front; that he wouldn't object if the addition was constructed in the front; and that he has concerns about the way the rear yard was measured and the north arrow is not correct.

At the February 4, 2009 meeting David Kwon and Youmi Jang, Architect appeared and testified.

Youmi Jang, Architect, testified that last time they had problems with the measurements; that she met with the building inspector, John Paci, and straightened everything out; that they are requesting a 7' variance for the rear yard and a .06 floor area ratio variance; that the deck was relocated and reduced from 12' wide to 10' wide; that the drainage has been addressed, which was the concern of the rear neighbor; that the grade level is much different between the houses; that there are 50' trees between the properties; that there would be at least 78' between the two houses after the addition is constructed; that there is enough of buffer to keep privacy between the residences, and that the cost of the project is the same for Mr. Kwon if the addition is built at 12' wide or 10' wide and she would like to see the client get as much as possible for his money.

David Kwon testified that he has three small bedrooms now and after the addition he will still have three bedrooms but they will be larger bedrooms; that there are 2 ½ bathrooms and after the construction there will be 2 ½ bathrooms; that they will have additional closets; that his two grown children will be living with him until they get married; that he would like to have the twelve foot extension because financially it makes sense and it provides the room he needs; that he already reduced the deck width to accommodate the

rear neighbor; that the pictures show the grade level between the houses; that there are a lot of trees for screening between the yards; and if he has to he will reduce the proposed addition to ten feet wide.

Public Comment:

Gilbert Marin, 90 Monmouth Court, abutting property owner to the rear, testified that he was not aware of the pictures; that they were not in the file; that he doesn't agree with the pictures; that the north arrow should be corrected; that he doesn't want any more confusion; that the drainage is a secondary issue; that the expansion outward is the problem; that there is not enough room between the properties now; that the expansion out back will make an already crowded situation worst; that any extension will effect him; that the Kwon's plans are too ambitious, too extensive; that the property is inadequate for this type of expansion; that it negatively impacts his sight distance; and that he will be very upset if the expansion is more than ten feet.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested rear yard, front yard and floor area ratio variances as modified would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to relocate and reduce the size of the proposed deck by two feet and the proposed addition has been reduced by two feet.
2. The requested rear yard, front yard and floor area ratio variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested rear yard, front yard and floor area ratio variances as modified, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
5. The applicant purchased the property and is proposing the addition, 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 front yard, rear yard and floor area ratio variances is **APPROVED** with the **SPECIFIC CONDITION** that the applicant reduce the rear yard set back variance request to 36' 11 ¾", the proposed addition shall be 10' wide with a 10' wide deck; 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, rear yard, and floor area ratio variances as modified was presented and moved by Ms. Albanese, seconded by Mr. Sullivan, and carried as follows: Ms. Albanese, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Mowerson 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: February 4, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR –J.P.

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

DECISION

SIDE YARD VARIANCE APPROVED

To: Donald DeCaprio

ZBA # 09-10

6 South Pascack Road
Pearl River, New York 10965

Date: 2 / 4 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-10: Application of Donald DeCaprio for a variance from Chapter 43, R-15 District, Section 3.12, Group M, Column 9 (Side Yard: 20' required, 11' existing) for an existing above-ground pool at an existing single-family residence. The premises are located at 6 South Pascack Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.14, Block 2, Lot 85; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 4, 2009 at which time the Board made the determination hereinafter set forth.

Donald DeCaprio appeared and testified.

The following documents were presented:

1. Copy of survey dated April 6, 1998 by Joseph Haller, with pool drawn on it.
2. A letter in support signed by John and Laurie Gaglio, abutting property owners.

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

Donald DeCaprio testified that he purchased his house in 1998; that he and his wife have two children; that five years ago he hired a pool company to install the above ground pool; that he did not realize that he never got a certificate of occupancy for the pool until recently; that he came in to the building department for the certificate of occupancy and found out that the contractor had installed the pool without a permit; that when he applied for the permit, it was denied because the pool was too close to the property line; that he could have installed the pool without a variance if the contractor had done the job correctly; that the pool is a 24' round pool; that he would like to keep the pool at its present location because it would cost too much to move it; and that he found all of this out when the building inspector came to the house for an inspection on work that is being done now.

Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the

meeting and found them to be properly posted and as generally described on the application.

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The above ground pool was constructed five years ago and the neighbor closest to the pool has submitted a letter in support of permitting the pool to stay in its present location.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance. If the applicant's professional had applied for a permit at the time of the installation, the applicant could have moved the pool to accommodate the required side yard, however, to move the pool after five years would be very costly.
4. The requested front yard variance although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
5. The applicant installed the pool, 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 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 side yard variance was presented and moved by Ms. Castelli, seconded by Ms. Albanese, and carried as follows: Ms. Albanese, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Mowerson 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: February 4, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -B.v.W.

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

DECISION

SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Patrick Hogan

ZBA # 09-11

125 Martin Place

Date: 2 / 4 / 09

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-11: Application of Patrick Hogan for variances from Chapter 43, Section 3.12, RG District, Group Q, Columns 9 (Side Yard: 10' required, 6' proposed) and 12 (Building Height: 8' permitted, 12' proposed) for an addition to an existing single-family residence.

The premises is located at 125 Martin Place, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.20, Block 2, Lot 57; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 4, 2009 at which time the Board made the determination hereinafter set forth.

Patrick and Ann Marie Hogan appeared and testified.

The following documents were presented:

1. Architectural plans, not dated, signed and sealed by Robert J. Murphy, Architect.
2. Copy of survey dated June 13, 1984 by Thomas Donovan, P.L.S.
3. Bulk table signed and sealed by Robert J. Murphy, Architect.
4. A letter dated February 1, 2009 from Virginia Redmond, 115 Martin Place, in support of the application.

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

Patrick Hogan testified that they have owned the house since 1994; that they would like to square off the house and extend the kitchen; that they have three children aged 18, 14, and 9; that the existing kitchen is very small; and that the addition would not extend beyond the outer line of the house.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard and building height variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed 133 sq. ft. addition is filling in a nook at the side of the house and will not intrude on surrounding properties.
2. The requested side yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood

or district.

3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested side yard and building height variances although substantial will not have an adverse effect or impact on the physical or environmental conditions of the area.
5. The applicant purchased the property and is proposing the addition, 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 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 side yard and building height variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli, and carried as follows: Ms. Albanese, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Mowerson 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: February 4, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

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

DECISION

FLOOR AREA RATIO VARIANCE APPROVED

To: Michael and Michelle Bosco

ZBA # 09-12

8 Robin Street

Date: 2 / 4 / 09

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-12: Application of Michael and Michelle Bosco for a variance from Chapter 43, R-15 District, Section 3.12, Group M, Columns 4 (Floor Area Ratio: .20 permitted and existing, .24 proposed) for an addition to an existing single-family residence. The premises are located at 8 Robin Street, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.18, Block 1, Lot 76; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 4, 2009 at which time the Board made the determination hereinafter set forth.

Michael and Michelle Bosco and John Deans, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated October 1, 2008 signed and sealed by John Deans, Architect.

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

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

John Deans, Architect, testified that certain areas of the house are more than adequate; that the entryway is large; that the kitchen and dining area is fine but the living room is only ten feet wide; that the family needs a room that accommodates the family; that the placement of the family room in the rear of the house would not intrude on other properties; and there are no objecting neighbors.

Michael Bosco testified that he and his wife purchased the house from his wife's parents; that it is a two-family residence; that the other apartment has a kitchen, dining area, living room, and one bedroom; that their side of the house is has four bedrooms upstairs and one bathroom; that the existing living room isn't large enough to accommodate the family; that he and his wife have four children ages 3 to 13; and that they would like to add the family room in the rear of the house.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed addition is in the rear of the house and will not intrude on surrounding properties.
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.
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 floor area ratio variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
5. The applicant purchased the property, and is proposing the addition, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested floor area ratio 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 Ms. Castelli, seconded by Mr. Sullivan, and carried as follows: Ms. Albanese, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Mowerson 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: February 4, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
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