

MINUTES
ZONING BOARD OF APPEALS
JANUARY 18, 2012

MEMBERS PRESENT: PATRICIA CASTELLI
 JOAN SALOMON
 DANIEL SULLIVAN
 NANETTE ALBANESE
 THOMAS WARREN, ALTERNATE

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 Ms. Castelli, Acting Chairperson.

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

MORAN	POSTPONED	ZBA#12-06
70.18 / 1 / 32; R-15 zone		

McCORMACK	REAR YARD	ZBA#12-07
69.07 / 1/ 23; R-40 zone	VARIANCE APPROVED	

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 8:15 P.M.

Dated: January 18, 2012

DECISION

REAR YARD VARIANCE APPROVED

To: Aidan McCormack

ZBA # 12-07

11 Marycrest Road
West Nyack, New York 10994

Date: January 18, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 12-07: Application of Aidan McCormack for a variance from Chapter 43, Section 3.12, Group E, Column 11 (Rear Yard: 50' required, 20' 4" proposed) for a proposed pool cabana at an existing single-family residence. The premises is located at 11 Marycrest Road, West Nyack, New York an identified on the Orangetown tax Map as Section 69.07, Block 1, Lot 23; R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 18, 2012 at which time the Board made the determination hereinafter set forth.

Aidan McCormack and Teodoro Siguenza, Architect, appeared and testified.

The following documents were presented:

1. Site plan based on survey by Robert Rahnefeld, L.S. dated 11/17/2006 with the latest revision date of 12/15/2011 , signed and sealed by Teodoro Ezequiel Siguenza, Architect.
2. Architectural plans dated 12/15/2011 signed and sealed by Teodoro Ezquiel Siguenza, Architect.
3. Two aerial shots of the property.

Ms. Castelli, Acting Chair, 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, 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: Mr. Warren, aye; Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Ms. Castelli, aye. Mr. Mowerson was absent.

Teodoro Sigiunza, Architect, testified that they are before the Board for a variance to place the pool cabana 20' 4" from the rear property line; that they have permit for the installation of the in-ground pool which meets the required 20' rear yard set back for pools; that they do not have anywhere on the property to place the cabana which would meet the 50' rear yard set back requirement; that the location of the cabana was chosen because it would be next o the pool and still permit full view of the pool from the kitchen windows; that it is a relatively low structure with a changing area, bathroom and seating alcove; that Mr. McCormack has shown the proposed plans to the two neighbors most affected by the proposal and they are encouraging him to complete the plans; that the neighbor to the right has a pool and the neighbor to the rear is o-k with the proposal; that they would like to heat the structure in order to maintain it; that the heat is necessary because of the plumbing; and that if they had to reduce the size of the structure they would, but a lot of planning and thought went into the design.

Aidan McCormack testified that when he built the house, he did not think that he would be installing a pool; that the rear yard from the house is 50'; that as his kids are growing up, plans have changed; that he does not want to reduce the size of the pool cabana because the area of the cabana that will be used for entertaining is 21' x 17' and this is the area that they need to accommodate friends and family when they entertain; that there are five people in the family; that his children are 12, 9 and 2 1/2; that he is planning on heating and air-conditioning the cabana; and that he has no intention of using the cabana as a residence.

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. Warren 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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed pool house will have a similar set back to the proposed pool.
2. 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 proposed pool house will have a similar set back to the proposed pool.
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. The house has a substantial front yard and the existing rear yard meets the 50 foot requirement, so anything constructed in the rear of the house would require a rear yard set back variance
4. The requested rear yard variance, although substantial, affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The proposed pool house will have similar rear yard set back as the proposed pool.
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 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 rear yard variance was presented and moved by Ms. Salomon, seconded by Mr. Sullivan and carried as follows: Ms. Castelli, aye; Mr. Sullivan, aye; .Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Warren, 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: January 18, 2012

