

MINUTES
ZONING BOARD OF APPEALS
January 7, 2009

MEMBERS PRESENT: PATRICIA CASTELLI
 WILLIAM MOWERSON
 DANIEL SULLIVAN
 NANETTE ALBANESE

ABSENT: JOHN DOHERTY

ALSO PRESENT: Denise Sullivan, 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 Chairman William Mowerson.

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEMS:

CHUNG 78.17 / 1 / 44; R-15 zone	FLOOR AREA RATIO, SIDE YARD, AND TOTAL SIDE YARD APPROVED	ZBA#08-99
ROCKLAND NISSAN 70.06 / 1 / 9 & 10; LIO zone	POSTPONED	ZBA#08-103

NEW ITEMS:

MC CORMACK 69.07 / 1 / 22; R-40 zone	REAR YARD VARIANCE APPROVED AS MODIFIED	ZBA#09-01
PARKER 74.13 / 2 / 35; R-22 zone	CONTINUED	ZBA#09-02
RAYWARD 73.05 / 1 / 27; R-15 zone	FLOOR AREA RATIO, AND FRONT YARD VARIANCES APPROVED	ZBA#09-03
STANTON & SIEGRIEST 69.10 / 1 / 27; R-15 zone	FLOOR AREA RATIO, AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#09-04

OTHER BUSINESS:

TRAYNOR AMENDMENT 64.20 / 1 / 5.3; R-40 zone	13' SIDE YARD APPROVED	ZBA#08-87
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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: Verizon Wireless Communication Facility Site Plan and Special Permit , 439 Valentine Road, Sparkill, NY, 78.05 /1/10 CS 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 10:15 P.M.

Dated: January 7, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
ASSESSOR
HIGHWAY DEPARTMENT
SUPERVISOR
TOWN BOARD MEMBERS
BUILDING INSPECTOR (Individual Decisions)
DEPT. of ENVIRONMENTAL MGMT. and ENGINEERING
Rockland County Planning

DECISION

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

To: Paul and Mimi Chung

ZBA # 08-99

4 Dakota Street

Date: 1 / 7 / 09

Palisades, New York 10964

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-99: Application of Paul and Mimi Chung for variances from Chapter 43, R-15 District, Section 3.12, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .24 proposed), 9 (Side Yard: 20' required, 16' proposed), and 10 (Total Side Yard: 50' required, 40.5' proposed) for an addition to an existing single-family residence. The premises are located at 4 Dakota Street, Palisades, New York, and are identified on the Orangetown Tax Map as Section 78.17, Block 1, Lot 44; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 7, 2009 at which time the Board made the determination hereinafter set forth.

Paul Chung and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Plot plan based on a survey prepared by HI Dorfman, PE, LS dated November 15,

- 1957, signed and sealed by Jane Slavin, Architect.
2. Architectural plans dated 9/15/08 signed and sealed by Jane Slavin, Architect.
3. List of variances with ten pictures attached.

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

On advice of Denise Sullivan, 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 §717.5 (c) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan; aye; and Ms. Castelli, aye. Mr. Doherty was absent.

Paul Chung testified that they would like to add a second floor to their ranch house; that they want to add bedrooms upstairs; that the existing bedrooms in the house are very small; that they also would like to add onto the existing single garage and make it a two car garage with some storage space; that his mother and mother-in-law visit often and stay over night; and that he would like to keep the garage as proposed, but if he has to cut it back, in order to do the addition, he will.

Jane Slavin, Architect, testified that the house is not set straight on the property; that the existing garage is only 10' wide; that they would like to add another garage and some storage area; that the house is a ranch style house with a walk-out basement; that the ceilings in the basement are under seven feet but the area was previously counted in the floor area ratio; that if the basement was not included the proposed addition to the floor area would only be for 350 square feet instead of the proposed 750 square feet; that #2 Iroquois Avenue was approved for a new two-car addition with a music room above and granted a 37.6' total side yard; that #4 Iroquois Avenue built a two-car addition with two bedrooms and two bathrooms above it and received a 19' side yard and 39' total side yard; that #9 Iroquois added to the front, side and above the existing garage ; that #32 Iroquois Avenue; received variances for a 15' side yard and 41' total side yard; #34 got variances for a 13' side yard and a 38.5' total side yard; #36 Iroquois Avenue added a new garage, front porch and two addition to the rear which did not require a variance but he has the largest lot in the neighborhood; that #17 Hornetooke Road added to the side for an additional garage, family room and two bedrooms above and got variances for side yard and total side yard; and that the proposed addition is in keeping with the character of the neighborhood.

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 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, side yard and total side yard variances would not

produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.

2. The requested floor area ratio, side yard and total side yard variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio, side yard and total side yard variances, although substantial, do not impact the environmental conditions of the area and the addition to the house, is in keeping with the character of the original residence.
5. The applicant purchased the property 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, side yard and total side yard variances is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the

purposes hereof.

The foregoing resolution to approve the application for the requested floor area ratio, side yard and total side yard variances was presented and moved by Mr. Sullivan , seconded by Ms. Castelli, and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Doherty 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 7, 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 –R.O.

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

DECISION

REAR YARD VARIANCE APPROVED

To: Aidan and Michelle Mc Cormack

ZBA # 09-01

11 Marycrest Road
West Nyack, New York 10994

Date: 1 / 7 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-01: Application of Aidan and Michelle McCormack for a variance from Chapter 43, R-40 District, Section 3.12, Group E, Column 11 (Rear Yard: 50' required, 5' proposed), for the installation of a 10' x 16' Playhouse at an existing single-family residence. The premises are located at 11 Marycrest Road, West Nyack, New York, and are identified on the Orangetown Tax Map as Section 69.07, Block 1, Lot 23; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 7, 2009 at which time the Board made the determination hereinafter set forth.

Aidan Mc Cormack appeared and testified.

The following documents were presented:

1. Copy of survey dated November 17, 2006 by Robert Rahnefeld, L.S..
2. Picture of proposed playhouse.

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

On advice of Denise Sullivan, 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 §717.5 (c) (7); which does not require SEQRA

environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Doherty was absent.

Aidan Mc Cormack testified that he and his wife would like to install a playhouse in the rear of the property for his children; that the location was chosen because there is a clear view from the kitchen window to the playhouse; that they have two children ages 9 and 6 and another on the way; that there are a lot of trees on the property; that there is about 30 feet of property and a driveway between the proposal and his neighbors house; and that the playhouse could be moved to ten feet from the property line.

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 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 variance as modified would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
2. The requested rear yard variance as modified would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought 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 as modified, although substantial, will not impact the environmental conditions of the neighborhood.
5. The applicant purchased the property 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 variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested rear yard variance as modified to ten feet 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 as modified to ten feet was presented and moved by Ms. Albanese, seconded by Ms. Castelli, and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Doherty 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 7, 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

FLOOR AREA RATIO AND FRONT YARD VARIANCES APPROVED

To: Paul and Maura Rayward

ZBA # 09-03

50 Lenape Road
Pearl River, New York 10965

Date: 1 / 7 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-03: Application of Paul and Maura Rayward for variances from Chapter 43, R-15 District, Section 3.12, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .285 proposed) and 8 (Front Yard: 30' required, 28.9' proposed) for an addition to an existing single-family residence. The premises are located at 50 Lenape Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 73.05, Block 1, Lot 27; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 7, 2009 at which time the Board made the determination hereinafter set forth.

Paul and Maura Rayward appeared and testified.

The following documents were presented:

1. Survey dated 5/24/93 signed and sealed by Robert R. Rahnefeld, L.S.
2. Architectural drawing dated October 29, 2008 signed and sealed by Stephen Mitchell, Architect.

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

On advice of Denise Sullivan, 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 §717.5 (c) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan; aye; and Ms. Castelli, aye. Mr. Doherty was absent.

Paul Rayward testified that he and his wife purchased their house in 1993; that they have four children aged 2, 4, 11 and 13; that Maura's parents are going to be moving in with them; that his father-in-law has arthritis and dementia; that they currently live in a three story Bronx walk up and it has become a hardship for them; that they would like to expand the house to accommodate his in-laws and his children; that the house is a raised ranch style house; that they would like to add a small addition to the front of the house to allow a little more room to the entrance of the house where there is currently about three feet before either going up or down stairs; that they would like to give his in-laws a private entrance so that they do not have to use the stairs and give them some privacy; that they would also like to expand the kitchen, bedrooms and family room; that they are eliminating the existing deck; that they are combining the two small bedrooms upstairs into one bedroom and adding another bedroom at the rear of the house that will line up with the downstairs addition that will accommodate his in-laws; that they are expanding the existing kitchen but are not adding an additional kitchen; that other neighbors have added additions on the block; that most of the additions are to the rear of the properties; and that the lots are pretty uniform on the block.

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. Castelli and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio and front yard variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested floor area ratio and front yard variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed addition is mostly in the rear of the house and the proposal is still maintaining the current character of the neighborhood.
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 floor area ratio and front yard variances, although substantial, will not impact the environmental conditions of the area because the addition to the house is in keeping with the character of the original residence.
5. The applicant purchased the property 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 and front yard variances is **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be

obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute “substantial implementation” for the purposes hereof.

The foregoing resolution to approve the application for the requested floor area ratio and front yard variances was presented and moved by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Doherty 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 7, 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.vW.

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

DECISION

FLOOR AREA RATIO AND BUILDING HEIGHT VARIANCES APPROVED

To: Douglas Stainton & John Siegriest

ZBA # 09-04

21 Casazza Place

Date: 1 / 7 / 09

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-04: Application of Douglas Stainton & John Siegriest for variances from Chapter 43, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .245 proposed), and 12 (Building Height: 20’ permitted, 22’ 4” proposed) (Section 5.21:Undersized lot applies) for a renovation and addition to a single-family residence. The premises are located at 21 Casazza Place, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.10, Block 1, Lot 27; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 7, 2009 at which time the Board made the determination hereinafter set forth.

John Siegriest and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Survey dated April 9, 2008 signed and sealed by Robert R. Rahnefeld, L.S.
3. Architectural plans dated May 28, 2008 with the latest revision date of October 14, 2008 signed and sealed by Harry J. Goldstein, Architect.
4. Seven pictures of the existing house.
5. Four letters in support of the application by neighbors.
6. Ten pictures of houses on the area that have been listed for sale.

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

On advice of Denise Sullivan, 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 §717.5 (c) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan; aye; and Ms. Castelli, aye. Mr. Doherty was absent.

Donald Brenner, Attorney, testified that the applicant was before the board a three or four months ago; that modifications have been made to accommodate the Board; that the existing building is in very poor shape; that an older man lived in the house with his dogs for many years; that the neighbors would like to see the property improved; that this Board granted variances for 10 Villa Drive, 14 & 16 Duhaime Road and these requested variances are similar to those; that the existing house cannot be salvaged; and that this proposal will benefit the neighborhood and that this neighborhood is changing.

John Siegriest testified that the floor area ratio was reduced from .255 to .245 since the last application; that the distance variance that was requested for the garage/house distance has been eliminated; that the roof was changed to from a hip roof to a gable roof; that the existing house was not taken care of and would be very difficult to repair; that four feet were removed from the garage to conform for the distance between buildings; and that the reduced proposal is supported by the neighbors.

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. Castelli and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio and building height variances would not produce an

undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.

2. The requested floor area ratio and building height variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This revised proposal has been substantially reduced from the earlier submission.
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 floor area ratio and building height variances are not substantial.
5. The applicant purchased the property 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 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 floor area ratio and

building height variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli, and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Doherty 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 7, 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 -R.O.

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

DECISION

AMENDED SIDE YARD VARIANCE APPROVED AS MODIFIED

To: Philip Traynor

ZBA # 08-87

283 Sickletown Road
West Nyack, New York 10994

Date: 1 / 7 / 2009

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

Amendment to ZBA#08-87: Application of Philip Traynor for variances from Chapter 43, R-40 District, Group E, Section 3.12, Column 12 (Building Height: 6.6' permitted with a 10' side yard; 8.6' permitted for a 13' side yard; 15' proposed), and from Section 5.227 (Accessory Structure Side Yard: 30' required, 10' proposed: **Built with a 13' side yard**) for a detached one-car garage at an existing single-family residence. The premises are located at 283 Sickletown Road, West Nyack, New York and are identified on the Orangetown Tax Map as Section 64.20, Block 1, Lot 5.3; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, January 7, 2009 at which time the Board made the determination hereinafter set forth.

Robert Hoene, Architect, and Ed Cooke appeared.

The following documents were presented:

1. Revised site plan labeled as built dated 12/15/08 signed and sealed by Robert Hoene, Architect.

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

Ed Cooke, Contractor, testified that he built the garage; that he moved the garage over three feet to make sure that the group of existing trees would not be impacted by the construction; that he did not realize that it would cause a problem, since the Board had granted a ten foot side yard and he was providing a thirteen foot side yard; and that he would like to apologize for his error.

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. Castelli and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested increased side yard variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The mistake by the builder has increased the side yard by three feet.
2. The requested increased side yard 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 the amendment to the granted side yard variance.
4. The requested side yard amendment variance is not substantial; however it increased the approved side yard by three feet.
5. The applicant purchased the property 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 amended side yard variance is **APPROVED AS MODIFIED** by increasing the side yard by three feet; 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 13' modified side yard variance was presented and moved by Mr. Mowerson, seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Doherty 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 7, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

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DISTRIBUTION:

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