

MINUTES
ZONING BOARD OF APPEALS
July 1, 2009

MEMBERS PRESENT: DANIEL SULLIVAN
WILLIAM MOWERSON
JOAN SALOMON
PATRICIA CASTELLI
NANETTE ALBANESE

ABSENT: NONE

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 Chairman Mr. 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:

LOWES GARDEN CENTER 74.15 / 1 / 3 & 4; LI zone	OFF-STREET PARKING ZBA#09-40 VARIANCE APPROVED WITH REVISED OUTDOOR STORAGE PLAN
ART STUDENTS LEAGUE 74.16 / 1 / 9 & 75.13 / 1/ 1; R-40 zone	USE VARIANCE ZBA#09-35 APPROVED WITH CONDITIONS

NEW ITEMS:

O'KANE 64.18 / 2 / 8; RG zone	FRONT YARD FENCE ZBA#09-41 HEIGHT VARIANCE APPROVED WITH CONDITION
BURKE 68.19 / 3 / 71; R-15 zone	FLOOR AREA RATIO, ZBA#09-42 BUILDING HEIGHT, ACCESSORY STRUCTURE SIDE YARD VARIANCES APPROVED
SULLIVAN 70.14 / 3 / 43; R-15 zone	FLOOR AREA RATIO ZBA#09-43 VARIANCE APPROVED
ORANGETOWN ANIMAL HOSPITAL 70.14 / 4 / 21; LO zone	LOT AREA, LOT WIDTH, ZBA#09-44 STREET FRONTAGE, SIDE YARD, TOTAL SIDE YARD, REAR YARD AND BUILDING HEIGHT VARIANCES APPROVED
CONNORS 69.06 / 1 / 72; R-15 zone	FRONT YARD, SIDE ZBA#09-45 YARD, AND BUILDING HEIGHT VARIANCES 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 10:45 P.M.

Dated: July 1, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

DISTRIBUTION:

Deborah Arbolino
Administrative Aide

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

**OFF-STREET PARKING VARIANCE APPROVED WITH REVISED
OUTDOOR STORAGE PLAN AS SUBMITTED**

To: Daniel P. Yanosh (Lowe's)

615 Fishers Run
Victor, New York 14564

ZBA #09-40

Date: 7/ 1/ 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-40: Application of Lowe's Home Improvement Warehouse of Orangeburg for a variance from Chapter 43, (Zoning) of the Code of the Town of Orangetown LI District, Section 3.11, refers to CS District, Column 6 (Minimum Required Off Street Parking Spaces: One parking space for each 200 sq. ft. of gross floor area ratio: 739 spaces required, 654 spaces proposed) for the expansion of the garden center at an existing retail establishment. Premises are located at 206 Route 303, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.15, Block 1, Lot 3; LI zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 1, 2009 at which time the Board made the determination hereinafter set forth.

At the June 17, 2009 meeting Dan Yanosh, Engineer and Brian Nelson, Architect, appeared and testified.

The following documents were presented:

1. Overall Site Plan dated 4/2/09 (4 pages) by ADP Engineering & Architecture.
2. A letter from John Giardiello, P.E. Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.

3. A letter dated June 15, 2009 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
4. Planning Board decision #09-02 dated March 26, 2009.
5. Zoning board Decision # 's 04-72 and 02-120.
6. A memorandum dated June 17, 2009 from Paul Witte, Code Enforcement Officer with 15 pictures.
7. Lowe's Garden Expansion plan dated 4/2/09 with a revision date of 6/18/09.

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

In view of the Planning Board having previously notified the ZBA of its intention to act as Lead Agency under the State Environmental Quality Review Act, and the Planning Board having previously determined, as Lead Agency on 03/25/2009, that the project will Not have a significant adverse environmental impact through coordinated review under SEQRA, in other words a Negative Declaration was determined by the Planning Board, the ZBA is bound by the Planning Board's SEQRA Negative Declaration and the ZBA cannot require any further environmental review under SEQRA, pursuant to SEQRA Regulation §617.6 (b) (3) (iii).

At the June 17, 2009 meeting Dan Yanosh testified that Lowe's would like to expand its Garden Center by 10,000 sq. ft.; that they would have to encroach into parking area and lose 42 parking spaces; that they have 27 spaces in the rear of the building and 96 future spaces; that there are grills outside and other items; that they would like a continuance to bring a revised plan showing all of the outdoor storage and to clarify the parking calculations.

Public Comment:

No public comment.

At the July 1, 2009 meeting Dan Yanosh, Engineer, appeared and testified.

Dan Yanosh testified that the number of parking spaces are more clearly explained on the plan and the outdoor storage areas are labeled and the sizes of the storage areas are shown on the plan; that future spaces are shown; that the spaces in the rear of the store area already constructed and can be used for parking if necessary; that the north side of the parking lot is hardly ever used for customers; that the Subaru Dealer and people walking or bike riding on the trail use the most northern parking spaces; that he would like to walk the site and see what outdoor areas he missed and add them to the plan tonight in order to move forward with the project.

Dan Yanosh returned and added the 10' x 10' environmental cage and 3' x 10' storage are for the propone forklifts; and dated the plan; that the applicant would comply with the outdoor storage as shown on the plan and dated as of tonight.

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 off-street parking space variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant still has ample future parking spaces that could be built if necessary and has agreed to comply with the revised outdoor storage plan dated 4/2/09 revised 6/18/09 and added to and signed on 7/1/09 by APD Engineering & Architecture OV-1 project No. 09-0110.
2. The requested off-street parking space 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. The applicant still has ample future parking spaces that could be built if necessary and has agreed to comply with the revised outdoor storage plan dated 4/2/09 revised 6/18/09 and added to and signed on 7/1/09 by APD Engineering & Architecture OV-1 project No. 09-0110.
4. The requested off-street parking space 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 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 off-street parking space variance are APPROVED with the SPECIFIC CONDITION that the applicant comply with the outdoor storage as shown on the plan "Lowe's Garden Center Expansion" dated 4/2/09 revised 6/18/09 and added to and signed on 7/1/09 by APD Engineering & Architecture OV-1 project No. 09-0110; 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 off-street parking variance with the specific condition that that the applicant comply with the outdoor storage as shown on the plan "Lowe's Garden Center Expansion" dated 4/2/09 revised 6/18/09 and added to and signed on 7/1/09 by APD Engineering & Architecture OV-1 project No. 09-0110; was presented and moved by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: July 1, 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 -L.P.

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

DECISION

USE VARIANCE APPROVED WITH SPECIFIC CONDITIONS

To: Walter Aurell (Art Students League)

ZBA # 09-35

118 Main Street

Date: 7/ 1/ 09

Tappan, New York 10983

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 09-35: Application of the Art Students League for a use variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown, R-40 District, Section 3.11 (Uses: Not a Use Permitted by Right), applicant is proposing new temporary residence/studios for four visiting artists in a 2100 sq. ft. wood frame building. The site is located at 221 Kings Highway, Sparkill, New York and are identified on the Orangetown Tax Map as Section 75.13, Block 1, Lot 1 and Section 74.16, Block 1, Lot 9; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 1, 2009 at which time the Board made the determination hereinafter set forth.

Walter Aurell, Architect, appeared and testified.

The following documents were presented:

1. "Overall Plan" Art Student League dated 3/23/09 signed and sealed by Stuart Strow, P.E., Centerpoint Engineering.
2. Two pages (Criteria to support a use variance for the Art Students League, Vytlacil Campus, signed by Walter Aurell, Architect.
3. A letter dated June 2, 2009 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
4. A letter dated May 20, 2009 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
5. A memorandum dated 4/20/09 from Michael B. Bettman, Chief Fire Inspector.
6. Interoffice Memorandum confidential from Dennis Michaels, Deputy Town Attorney, dated June 3, 2009 to the Zoning Board (5 pages).
7. Architectural plans dated August 22, 2008 signed and sealed by Walter Aurell, Architect..

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

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 to the Planning Board acting as Lead Agency for this application, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b) (3)(iii); and since Planning Board conducted SEQRA review and on June 24, 2009 rendered a 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 Decs and the ZBA cannot require further environmental review pursuant to SEQRA Regulations §617.6 (b) (3) (iii).

Walter Aurell testified that they had been scheduled for the June 3rd hearing but could not be heard that night because the Planning Board had not declared a negative declaration for SEQRA; that SEQRA has been done and preliminary approval was granted at the Planning Board meeting on June 24, 2009; that they are in the process of merging the lots and are also applying for site plan at the same time; that they came before this Board for an interpretation of a school of general instruction but fell short of meeting all of the criteria to qualify as a school of general instruction; that they are back to apply for a use variance to construct a 2.100 sq. ft. residential scale building on 15.22 acres that would offer two studio residences, two apartments and a fifth space for studio use or classes; that the residential use would be limited to artists in residence; that the time for each residence would not exceed four months; that it would be used for temporary artists residents but the building would be a permanent structure; that new students would generate new interest in the campus; that the general public is always invited to exhibitions and the classes are open for enrollment to the public; that the Vytlacil Campus of the Art Students League operates at a financial loss during a typical year; that the enhancement of its residential program with the proposed facility will help offset this loss but will not cover it completely; that this institution allowing the residences for

traveling artists will improve its financial health; that the hardship is unique; that the Art Students League is a school in a residential zone and is very different from its immediate neighbors, and has very different needs and requirements; that to pursue its academic mission, a school must adapt its facilities to financial and curricular realities in a timely way; that the proposed building is designed to address current needs and it would be a hardship if the school were prevented from undertaking this construction; that even with the new building, the school would be operating at a much lower density than the R-40 zone permits; that across the street the zoning is R-15 which is much higher intensity than the R-40 zone; that the proposed building will not alter the essential character of the neighborhood; that the requested use variance would allow the construction of a 2,100 sq. ft. residential scale building on a 15.22 acre campus of other residential scale buildings; that the new building is an appropriate scale for its wooded site and would be only partially visible from the road because there is a significant wooded buffer between it and the road; that Dowling Gardens Senior Residence and St. Thomas Aquinas College are located along Kings Highway nearby and are much larger; that the alleged hardship was not self-created because the Art Students league did not purchase their property as a for-profit venture; that the Vytlacil Campus of the Art Students League of New York was donated to the school by a former student; that the condition of the gift was that the property be used as a school; and that in order for this gift to be viable and as self-sustaining as possible, avenues for the generation of operating funds within the non-profit framework are essential to the continued success of the institution at this location.

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 ZBA has struck a balance between the important contribution made to society by educational institutions and the inimical consequences of their presence in residential neighborhoods, and recognizes that the Art Students League is an educational institution which is presumed to have a beneficial effect on the community and benefits from special treatment with respect to zoning ordinances and regulations; and, consequently, is not required to satisfy the four criteria to obtain a use variance mandated by NYS Town Law § 267-b(2)(b), as held by controlling NYS courts' judicial decisions.
2. Finds that the proposed land use action does not have any detrimental impacts upon the public's health, safety, welfare or morals.
3. The applicant has identified its own needs and presented those interests in its Application, and the ZBA has determined that the proposed accessory use is reasonably associated with the Applicant's educational purpose.
4. The residences are for use by temporary artists for no longer than 4 months at a time.
5. The Art Students League Vytlacil Campus is open to the public for enrollment in a variety of classes which is beneficial to the community.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested use variance is APPROVED with the SPECIFIC CONDITIONS that (1) the applicant comply with the letter dated April 20, 2009 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown; (2) that the use is granted specifically for the plan dated August 22, 2008 signed and sealed by Walter Aurell, Architect, for four residential units for artists in residence for stays for no longer than four months; ; 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 use variance with the specific conditions that (1)the applicant comply with the letter dated April 20, 2009 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown; (2) that the use is granted specifically for the plan dated August 22, 2008 signed and sealed by Walter Aurell, Architect, for four residential units for artists in residence for stays for no longer than four months; was presented and moved by Ms. Castelli, seconded by Ms. Salomon, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: July 1, 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 -L.P.

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

DECISION

FRONT YARD FENCE HEIGHT VARIANCE APPROVED

To: Liam and Sallie Ann O’Kane

ZBA # 09-41

4 Nancy Road
Nanuet, New York 10954

Date: 7/ 1/ 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-41: Application of Liam and Sallie Ann O’ Kane for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown R-22 District, Section 5.226 (Front Yard Fence Height: 4 12’ permitted, 6’ proposed) for a six foot fence in a front yard at an existing single family residence. The premises are located at 4 Nancy Road, Nanuet, New York, and are identified on the Orangetown Tax Map as Section 64.18, Block 2, Lot 8; R-22 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 1, 2009 at which time the Board made the determination hereinafter set forth.

Liam O’Kane appeared and testified.

The following documents were presented:

1. Copy of survey dated August 8, 1983 by Caruso & Haller, P.C. with proposed fence drawn on it.

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; Mr. Sullivan; aye; and Mr. Mowerson, aye.

Liam O’Kane testified that he would like to construct a wood fence and his wife wants a vinyl fence; that they have grandchildren that visit and they have two front yards, one on Nancy and one on Townline; that there are other 6’ fences in the area; that four properties to the east have fences; that one of them is wood and three are vinyl; that he wants to install it within the 30’ undisturbed area that it marked on his survey because all of the other neighbors that constructed fences did it within that 30’ undisturbed area; and that he knows he is installing at his own risk.

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. Salomon 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 front yard fence height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar fences have been constructed in the area.
2. The requested front yard fence height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
Similar fences 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 fence height 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 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 front yard fence height variance is **APPROVED** with the **SPECIFIC CONDITION** that the applicant will maintain the property outside the fence; 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 fence height variance was presented and moved by Mr. Sullivan, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: July 1, 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, SIDE YARD AND BUILDING HEIGHT VARIANCES
APPROVED**

To: Paul and Eileen Burke

ZBA # 09-42

140 Fairview Avenue
Pearl River, New York 10965

Date: 7/ 1/ 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-42: Application of Paul and Eileen Burke for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .30 proposed), 12 (Building Height: 20' permitted Undersized lot §5.21 applies, 22' 10" proposed) and from Section 5.227 (Accessory Structure Side Yard: 5' required, 1.6' existing non-conforming) for an addition to an existing detached garage and an existing single-family residence. The premises is located at 140 Fairview Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.19, Block 3, Lot 71; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 1, 2009 at which time the Board made the determination hereinafter set forth.

Eileen and Paul Burke and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 5/7/08 (2 pages) signed and sealed by Jane Slavin, Architect.
2. Plot plan dated 5/13/09 signed and sealed by Jane Slavin, based on survey dated March 1, 1991.
3. Six letters of support from abutting property owners.
4. Ten pictures of house in the area.
5. A drawing of the existing floor area of the first and second floor with proposed changes.
6. Interior plans for the first and second floor.
7. Elevation sheet.
8. A page showing the variances granted in the area.

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

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

Paul Burke testified that the existing house has two bedrooms and that they are proposing to add two bedrooms; that he and his wife have three sons; that they are also proposing to add a family room and to convert the existing one car garage and carport into a usable two car garage; and that they have owned the house for ten years.

Eileen Burke testified that there will be very little change to the outside of the house; that they are keeping and extending the roof line; and that the boys are aged 10, 6 and 2.

Jane Slavin, Architect, testified that the existing square footage of the house is 1,625 sq. ft.; that the addition to the rear and side will not change the appearance of the house; that the addition was designed to keep the original character of the house but to allow the house to accommodate the growing family; that the lot is only 75' wide and 12,357 sq. ft. and 15,000 sq. ft. is required; that the side yard exists because of the location of the garage; that there are a number of older homes in the area that have gotten variances; that 133 Springsteen was granted a .3315 floor area ratio and a 3.6' side yard; that 155 Fairview was granted a .26 floor area ratio, 18.7' side yard and 43.7' total side yard; that 159 Fairview did an addition that did not need variances; that 160 Fairview received a .21 floor area ratio on an oversized lot of 16,436 sq. ft.; that 146 West Park Avenue received a floor area ratio variance of .24 and a front yard of 27.5'; and that the proposal shows very little change to the curb appeal of the existing 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.

Mr. Mowerson made a motion to close the Public Hearing which motion was seconded by Ms. Salomon 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, building height and accessory structure side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested floor area ratio, building height and accessory structure side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio, building height and accessory structure side yard 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 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 floor area ratio building height

and accessory structure side yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested floor area ratio, building height and accessory side yard variances was presented and moved by Ms. Salomon, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, nay.

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: July 1, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS

TOWN CLERK
HIGHWAY DEPARTMENT

SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -R.O.

ASSESSOR
DEPT. of ENVIRONMENTAL
MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

DECISION

FLOOR AREA RATIO VARIANCE APPROVED

To: Dan and Allison Sullivan

ZBA # 09-43

42 Arthur Street

Date: 7/ 1/ 09

Blauvelt, New York 10913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-43: Application of Dan and Allison Sullivan for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown R-15 District, Section 3.12, Group M, Column 4 (Floor Area Ratio: .20 permitted, .227 proposed) for an addition to an existing single family residence. The premises are located at 42 Arthur Street, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.14, Block 3, Lot 43; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 1, 2009 at which time the Board made the determination hereinafter set forth.

Dan and Allison Sullivan and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 3/24//09 (1 page) signed or sealed by Jane Slavin, Architect.
2. Plot plan based on survey dated February 21, 1956 by Bergen Surveyors, signed and sealed by Jane Slavin, Architect.
3. Ten pictures of houses in the area.
4. A list of house that received variances in the area.

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; Mr. Sullivan; aye; and Mr. Mowerson, aye.

Dan Sullivan testified that he purchased the house from his parents; that they live in the lower level of the house; that his family has grown and they would like to add a master bedroom and a playroom for his two children.

Jane Slavin, Architect, testified that the house is a split level; that there are three bedrooms on the second floor; that they are planning to go up over the existing building and changing the smallest of the bedrooms into a small study/playroom for the boys; that there are no major structural changes to the building; that other house in the area have been granted variances for additions; that 31 Arthur Street received a variance of .21

floor area ratio, front yard of 34.3' side yard of 18.02 and total side yard of 36.85'; that 81 McKenna received a floor area ratio of .219 front yard of 26' and building height of 20.6'; that 97 McKenna received a floor area of .25 front yard of 28.5', side yard of 15.5' and total side yard of 35.5'; and that the pictures show several other houses that have done similar addition, so this proposal is 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 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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested floor area ratio variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested 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 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 floor area ratio variance is **APPROVED** with the **SPECIFIC CONDITION** that the applicant update the bulk table to correct the floor area ratio request; 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. Albanese, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: July 1, 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 -M.M.

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

DECISION

LOT AREA, LOT WIDTH, STREET FRONTAGE,, SIDE YARD, TOTAL SIDE YARD, REAR YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Donald Brenner (Orangetown Animal Hospital) ZBA #09-44

4 Independence Avenue
Tappan, New York 10983

Date: 7/ 1/ 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-44: Application of Orangetown Animal Hospital for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown Section 3.12, LO District, Columns 5 (Lot Area: 2 acres required, .9 acres provided), 6 (Lot Width: 300' required, 75.35' provided), 7(Street Frontage: 150' required, 75.35 provided), 9 (Side Yard: 100' required, 13.5' proposed),10 (Total Side Yard:200' required, 55.3' provided), 11 (Rear Yard; 100' required, 62.8'provided), and 12 (Building Height: 3" per foot permitted; 26' 5" proposed) for an expansion to Animal hospital kennel. Premises are located at 564 Route 303, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.14 Block 4 Lot 21; LO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 1, 2009 at which time the Board made the determination hereinafter set forth.

Buingro Jung and Donald Brenner, Attorney,appeared and testified.

The following documents were presented:

1. Architectural plans dated 6/23/08 (3 pages) signed and sealed by Matthew R. Oscar, Architect.
2. Survey dated September 27, 2007 signed and sealed by Anthony R. Celentano, L.S.
3. A letter dated June 22, 2009 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
4. A letter dated July 1, 2009 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
5. A letter dated June 17, 2009 from the State of New York Department of Transportation signed by Mary Jo Russo, P.E.
6. A letter from an abutting property owner.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Sullivan; aye; and Mr. Mowerson, aye.

Donald Brenner, Attorney testified that since their last time before the Board they have made the building smaller; that in answer to the letter from Rockland County Planning, they have a signed and sealed survey showing the lot; that the lot area, lot width, and street frontage are conditions that have existed since the animal hospital was established in 1957; that the side yard on the south is not changing it is staying at the existing 13.5'; that the windows are in place more for lighting than for ventilation because the building is climate controlled; that since the last meeting the building has been made half the size and was turned away from the neighboring property.

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 lot area, lot width, street frontage, side yard, total side yard, rear yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot area, lot width, and street frontage requests are for existing conditions and are not changing. The Orangetown Animal Hospital has been located at this location and in business since 1957 and the side yard, total side yard, rear yard and building height variances are necessary for the facility to stay competitive with other similar businesses.
2. The requested lot width, lot area, street frontage, side yard, total side yard, rear yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot width, lot area and street frontage variances are existing conditions and the rear property abuts the railroad.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. . The lot area, lot width, and street frontage requests are for existing conditions and are not changing. The Orangetown Animal Hospital has been located at this location and in business since 1957 and the side yard, total side yard, rear yard and building height variances are necessary for the facility to stay competitive with other similar businesses.
4. The requested side yard, total side yard, rear yard and building height variances although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The requested lot width, lot area and street frontage variances are for existing conditions that are not changing.
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 lot area, lot width, street frontage, side yard, total side yard, rear yard and building height variances are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall

become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested lot area, lot width, street frontage, side yard, total side yard, rear yard and building height variances was presented and moved by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: July 1, 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 -L.P.

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

DECISION

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

To: Edward and Theresa Connors

91 Villa Drive
Pearl River, New York 10965

ZBA # 09-45

Date: 7/ 1/ 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-45: Application of Edward and Theresa Connors for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown R-15 District, Section 3.12, Group M, Columns 8 (Front Yard: 30' required, 20' proposed), 9 (Side Yard: 20' required, 17.5' existing) and 12 (Building Height: 20' permitted, 21' proposed) for an addition to an existing single family residence. The premises are located at 91 Villa Drive, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.06, Block 1, Lot 72; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 1, 2009 at which time the Board made the determination hereinafter set forth.

Edward and Theresa Connors and Robert Hoene, Architect, appeared and testified.

The following documents were presented:

- 1. Architectural plans dated September 2008 (4 pages) with the latest revision date of 12/3/08 signed and sealed by Robert Hoene, Architect.

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; Mr. Sullivan; aye; and Mr. Mowerson, aye.

Robert Hoene, Architect, testified that the proposal is to add a third bay to the existing garage with a guest bedroom and sitting area above for Mrs. Connors' parents; that they are 30' away on one side and adding 10'; that they meet the twenty foot side requirement on the side of the house that the construction is on; that the 17.5' side yard is existing on the other side of the house and is not being changed; and that he would add the pool to

the plan.

Edward Connors testified that they added the dining room in the early 90's; that the house was built in 1954; and that they have a certificate of occupancy for the pool..

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. Salomon 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 front yard, side yard, and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested front yard, 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. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested front yard, 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 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 front yard, side yard, and building height variances are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested front yard, side yard, and building height variances was presented and moved by Ms. Castelli, seconded by Ms. Salomon, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: July 1, 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

