

MINUTES
ZONING BOARD OF APPEALS
JULY 11, 2012

MEMBERS PRESENT: WILLIAM MOWERSON
JOAN SALOMON
NANETTE ALBANESE
MICHAEL BOSCO, ALTERNATE

ABSENT: PATRICIA CASTELLI
DANIEL SULLIVAN

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

This meeting was called to order at 7: 00 P.M. by Mr. Mowerson, Chairman.

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

PALISADES LIBRARY 78.17 / 2 / 22; R-40 zone	FLOOR AREA RATIO, BUILDING HEIGHT VARIANCES APPROVED	ZBA#12-43
BURTCH 73.15 / 1 / 8; LIO zone	EXTENSION OF NON- CONFORMING USE GRANTED	ZBA#12-44
SHEEHAN 69.17 / 5 / 32; R-15 zone	FLOOR AREA RATIO, SIDE YARD, TOTAL SIDE YARD, BUILDING HEIGHT VARIANCES APPROVED	ZBA#12-45
REYNOLDS 69.17 / 2 / 44; R-15 zone	§11.2 HOME OCCUPATION VARIANCES APPROVED	ZBA#12-46
TWOHIG 78.09 / 1 / 12; R-15 zone	FLOOR AREA RATIO VARIANCE APPROVED	ZBA#12-47
MIELE-TEPLITZ 74.18 / 3 / 32; LI zone	POSTPONED FOR FIVE MEMBER BOARD	ZBA#12-48

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 9:15 P.M.

DECISION

FLOOR AREA RATIO, AND BUILDING HEIGHT VARIANCES APPROVED

To: Jeffrey Small (Palisades Library)

ZBA # 12-43

97 Duncan Avenue
Cornwall-on- Hudson N.Y. 12520

Date: July 11, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-43: Application of Palisades Library for variances from Chapter 43 (Zoning), Section 3.12, R-15 District, Group F, Columns 4 (Floor Area Ratio: .15 permitted, .30 existing, .31 proposed) and 12 (Building Height: 4'2" permitted, 17' proposed) for an addition to the library. The library is located at 19 Closter Road, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.17, Block 2, Lot 22 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 11, 2012 at which time the Board made the determination hereinafter set forth.

Jeffrey Small, Architect, Maria Gagliardi, Director of Palisades Free Library appeared and testified.

The applicant presented the following:

1. Architectural plans dated 3/21/2012 with the latest revision date of 6/12/2012 signed and sealed by Jeffrey Steeholm Small, R.A..
2. Survey dated May 14, 1996 by Steven Collazuol, PLS.
3. A letter dated July 9, 2012 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, Commissioner of Planning.
4. A letter dated June 25, 2012 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
5. Historic Areas Board of Review decision #12-08 dated June 12, 2012.

Mr. Mowerson, Chairman, 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. Salomon and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Ms. Castelli and Mr. Sullivan were absent.

Jeffrey Small, Architect, testified that the Library is proposing a small addition on the front of the building extending out 51/2 feet; that this addition will provide necessary office circulation space on the first floor and a meeting area on the second floor; that the building is barrier free and the addition will be barrier free; that the front door remains where it is; and that they are adding two handicap spaces.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The increase in floor area ratio is minimal and the building height variance is prompted by the existing setback.
2. The requested floor area ratio and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The increase in floor area ratio is minimal and the building height variance is prompted by the existing setback.
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 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 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 floor area ratio and building height variances was presented and moved by Mr. Mowerson, seconded by Ms. Salomon and carried as follows: Mr. Bosco aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli and Mr. Sullivan were absent.

DECISION

§ 9.34 EXTENSION OF NON-CONFORMING USE VARIANCE APPROVED

To: Jeffrey and Keira Burtch

ZBA # 12-44

73 Hunt Road

Date: July 11, 2012

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 12-44: Application of Jeffrey and Keira Burtch for a variance from Chapter 43 (Zoning), Section 9.34 (Extension of a non-conforming use) for an existing deck to be roofed over at an existing single-family residence. The premises are located at 73 Hunt Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 73.15, Block 1, Lot 8; LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 11, 2012 at which time the Board made the determination hereinafter set forth.

Jeffrey and Keira Burtch appeared and testified.

The following documents were presented:

1. Copy of site plan with proposed pool drawn on it.
2. Six pages of hand drawn proposal.

Mr. Mowerson, Chairman, 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. Salomon and carried as follows: Ms. Albanese, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Mr. Mowerson, aye. Ms. Castelli and Mr. Sullivan were absent.

Keira Burtch testified that they are proposing to convert the existing deck into a four season room and add a small deck off of it with stairs; that the porch in the front of the house was enclosed in 1986; and that the house is in the LIO zoning district and that is why they need a variance.

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 § 9.34 extension of non-conforming use variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has been advised that they are entitled to a one time extension of the non-conforming use up to 50% and have chosen to use it to convert the existing deck into a four season room.
2. The requested § 9.34 extension of non-conforming use variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has been advised that they are entitled to a one time extension of the non-conforming use up to 50% and have chosen to use it to convert the existing deck into a four season room.
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 § 9.34 extension of non-conforming use variance is not substantial: the applicant's have chosen to use the one and only extension to convert the existing deck into a four season room and add a small deck.
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 Zoning Code § 9.34 extension of non-conforming use variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested Zoning Code § 9.34 extension of non-conforming use variance was presented and moved by Ms. Salomon, seconded by Mr. Mowerson and carried as follows: Mr. Bosco, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli and Mr. Sullivan were absent.

DECISION

FLOOR AREA RATIO, SIDE YARD, TOTAL SIDE YARD, AND BUILDING HEIGHT VARIANCES APPROVED

To: Michael and Bethanne Sheehan
120 Old Middletown Road
Pearl River, New York 10965

ZBA # 12-45

Date: July 11, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-45: Application of Michael and Bethanne Sheehan for variances from Chapter 43 (Zoning), R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .2466 proposed), 9 (Side Yard: 20' required, 7.5' existing and proposed) and 10 (Total Side Yard: 50' required, 39.246' existing and proposed) and from Section 5.227 (Building Height: 15' permitted, 17' proposed) for the addition of a new garage and rec/pool cabana at an existing single-family residence. The existing garage is being demolished. The premises are located at 120 Old Middletown Road, Pearl River,, New York and identified on the Orangetown Tax Map as Section 69.17, Block 5, Lot 32, in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 11, 2012 at which time the Board made the determination hereinafter set forth.

Michael and Bethanne Sheehan and Karl Ackerman, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans with site plan dated 4/17/2012 with latest revision date 5/14/2012.
2. Five letters of support from abutting property owners.
3. Notice of cancellation from homeowner's policy for the garage.

Mr. Mowerson, Chairman, 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. Salomon and carried as follows: Ms. Salomon, aye; Ms. Albanese, aye; Mr. Bosco, aye; and Mr. Mowerson, aye. Ms. Castelli and Mr. Sullivan were absent.

Karl Ackerman, Architect, testified that this property is on a very busy road; that the garage is in dis-repair and will be moved forward toward the road to give a larger rear yard; that it will be re-built with the same five foot side yard; that the first floor of the garage will be for cars and the second floor will be used for the pool cabana and game room; that there are five members of the family and they have owned the house for six years.

Michael Sheehan testified that the insurance company has cancelled the insurance policy on the existing garage because of its condition and submitted a 0paper from the insurance company showing the cancellation.

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, side yard, total side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Moving the garage forward on the property does not detrimentally impact the neighbors and improves the flow on the property and the increase in floor area ratio is minimal. The side yard and total side yard variances are for existing conditions.
2. The requested floor area ratio, side yard, total 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. Moving the garage forward on the property does not detrimentally impact the neighbors and improves the flow on the property and the increase in floor area ratio is minimal. The side yard and total side yard variances are for existing conditions.
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, total side yard and building height variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
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, side yard, total 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 floor area ratio, side yard, total side yard and building height variances was presented and moved by Ms. Albanese, seconded by Mr. Mowerson and carried as follows: Mr. Bosco, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli and Mr. Sullivan were absent.

DECISION

HOME OCCUPATION SECTION 11.2 VARIANCES APPROVED

To: Donald Brenner (Dr. Reynolds)

ZBA # 12-46

4 Independence Avenue
Tappan, New York 10983

Date: July 11, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-46: Application of Dr. Edward Reynolds for variances from Chapter 43 (Zoning), Section 11.2, R-15 District (Home Occupation: Shall be carried on wholly within the primary structure on the premises, shall not exceed 500 sq. ft. permitted, 700 sq. ft. existing) for a dentist office in a detached garage, existing since 1963. The premises are located at 297 Orangeburg, New York and identified on the Orangetown Tax Map as Section 69.17, Block 2, Lot 44, in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 11, 2012 at which time the Board made the determination hereinafter set forth.

Dr. Reynolds and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Site plan.
2. Architectural plans labeled "existing floor plan signed" and sealed by Vincent Accocella, Architect.
3. Planning Board Decision #87-24 dated February 11, 1987.

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

Donald Brenner, Attorney, testified that Dr. Reynolds converted the garage into a dentist office in 1963 when he purchased the property; that it has been maintained as an office since that time; that he does not have a certificate of occupancy for the office and would like to get one; that he appeared before the Planning Board in 1987 for a lot line change and the testimony shows that that the Planning Board was aware of the office; that the office was converted prior to the zoning code but to clarify things, Dr, Reynolds is seeking the variances for the size of the office and the location, since it is not within the primary structure; and that there is a possibility that he may sell the house to another dentist.

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 § 11.2 variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Dentist office has existed in its present configuration since 1963 without incident or complaint and the applicant is seeking the variances in order to obtain a certificate of occupancy.
2. The requested § 11.2 variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Dentist office has existed in its present configuration since 1963 without incident or complaint and the applicant is seeking the variances in order to obtain a certificate of occupancy.
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 § 11.2 variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
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 Zoning Code § 11.2 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 Zoning Code § 11.2 variances was presented and moved by Mr. Mowerson, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli and Mr. Sullivan were absent.

DECISION

FLOOR AREA RATIO VARIANCE APPROVED

To: Barry Terach (TwoHig)

ZBA # 12-47

8 Turner Road
Central Valley, New York 10917

Date: July 11, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-47: Application of Kevin TwoHig for a variance from Chapter 43 (Zoning), Section 3.12, R-15 District, Group M, Column 4 (Floor Area Ratio: .20 permitted, .22 proposed) for an addition to an existing single-family residence. Premises are located at 6565 Route 340, Sparkill, New York and are identified on the Orangetown Tax Map as Section 78.09, Block 1, Lot 12 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 11, 2012 at which time the Board made the determination hereinafter set forth.

Barry Terach, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 05/07/2012 signed and sealed by Barry Terach, Architect.
2. A letter dated June 11, 2012 from the State of New York Department of Transportation signed by Mary Jo Russo, P.E., Rockland County Permit Engineer.
3. A letter dated July 6, 2012 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, Commissioner of Planning.
4. A letter dated July 11, 2012 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.

Mr. Mowerson, Chairman, 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. Salomon and carried as follows: Ms. Albanese, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Mr. Mowerson, aye. Ms. Castelli and Mr. Sullivan were absent.

Barry Terach, Architect, testified that this is a single-family residence that is in need of more living space; that the plan is to convert the existing garage into a play area for the children and it was logical to add a new garage next to the garage to be converted with a master bedroom above the new garage; that this side of the property does not impact any neighbors because this is the first house on 340 heading south; that the new garage is the minimum width to accommodate two cars; that there are five in the family; that the TwoHig's have owned the house since 2007; and if the addition were moved any where else on the property it would require more variances because of the shape of the 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. 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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicants' lot is oddly shaped and the proposed addition was placed within the building envelope and the proposed increase in floor area ratio is minimal.
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. The applicants' lot is oddly shaped and the proposed addition was placed within the building envelope and the proposed increase in floor area ratio is minimal.
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 is not substantial.
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**; 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. Salomon, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli and Mr. Sullivan were 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.

