

MINUTES
ZONING BOARD OF APPEALS
July 15, 2009

MEMBERS PRESENT: DANIEL SULLIVAN
WILLIAM MOWERSON
JOAN SALOMON
NANETTE ALBANESE

ABSENT: PATRICIA CASTELLI

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

NEW ITEMS:

135 SOUTH HIGHLAND 68.15 / 2 / 78; R-15 zone	LOT WIDTH, FRONT YARD, ZBA#09-46 SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES FOR LOT #1 AND STREET FRONTAGE VARIANCE FOR LOT #2 APPROVED WITH CONDITIONS
LYNSKEY 69.20 / 2 / 52; R-15 zone	BUILDING HEIGHT VARIANCE APPROVED ZBA#09-47
MARTIN 77.12 / 1 / 25; R-15 zone	FRONT YARD VARIANCE APPROVED ZBA#09-48
CULLEN 64.17 / 3 / 23; R-15 zone	FRONT YARD AND BUILDING HEIGHT VARIANCES APPROVED ZBA#09-49
SULLIVAN 77.15 / 1 / 29; R-15 zone	FLOOR AREA RATIO, FRONT YARD, SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED ZBA#09-50
SCHWARTZ 69.18 / 4 / 22; R-15 zone	FRONT YARD AND TOTAL SIDE YARD VARIANCES APPROVED ZBA#09-51
BLAUVELT FREE LIBRARY 70.14 / 2 / 45; CS zone	PARKING REQUIREMENT SIDE YARD AND REAR YARD VARIANCES APPROVED WITH CONDITIONS ZBA#09-52

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application: The

Espalade Palisades Site plan 78.17 / 2/ 1; R-40 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

The verbatim minutes, as recorded by the Board's official stenographer for the above hearings, are not transcribed.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 11:00 P.M.

Dated: July 15, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

DECISION

**LOT WIDTH, FRONT YARD, SIDE YARD, TOTAL SIDE YARD AND
BUILDING HEIGHT VARIANCES APPROVED FOR LOT #1; AND STREET
FRONTAGE VARIANCE APPROVED FOR LOT #2**

To: Anthony Benedict

ZBA #09-46

100 Red Schoolhouse Road

Date: 7/ 15 / 09

Suite B-1

Chestnut Ridge, New York 10977

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-46: Application of 135 South Highland for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown., Section 3.12, Group M, R-15 District, Group M, Columns 6 (Lot Width: 110' required, 80' proposed), 8 (Front Yard; 30' required, 28.9' proposed), 9 (Side Yard: 20' required, 19' proposed), 10 (Total Side Yard: 50' required, 39.5' proposed) and 12 (Building Height: 19' permitted, 24.4' proposed) for lot #1 and from Section 3.12, R-15 District, Group M, Column 7 (Minimum Street Frontage: 75' required, 20' proposed) for lot #2 of a proposed two- lot subdivision. The property is located at 135 Highland Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.15, Block 2, Lot 78; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 15, 2009 at which time the Board made the determination hereinafter set forth.

Jay Greenwell, Land Surveyor, Anthony Benedict, Attorney and Robert Pedro appeared and testified.

The following documents were presented:

1. Minor Subdivision plan (2 pages) dated September 18, 2008 with the latest revision date of 6/5/09 signed and sealed by Jay Greenwell, L.S..
2. A letter dated July 1, 2009 from the County of Rockland Department of Highways signed by Sonny Lin, P. E..
3. A letter dated June 10, 2009 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
4. A letter dated June 30, 2009 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
5. A letter dated June 18, 2009 from the Village of Chestnut Ridge Planning Board signed by Allan Rubin, Chairman.
6. A letter dated June 12, 2009 from Jay Greenwell, PLS.
7. A tax map showing other flag lots in the area.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Mr. Mowerson 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 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, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3) (iii); and since the Planning Board conducted SEQRA review on July 8, 2009 and rendered environmental determination of no significant adverse environmental impacts to result from the proposed land use actions (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 SEQRA review pursuant to SEQRA regulations § 617.6 (b)(3) (iii). The motion was seconded by Ms. Albanese and carried as follows: Ms. Salomon, aye; Ms. Albanese, aye; Mr. Sullivan; aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

Anthony Benedict, attorney, testified that Mark Perillo is the owner of the house on the corner; that I 2005 Max Jacobs purchased the subject property and went to the Planning Board with a proposal for a three lot subdivision; that when Mr. Perillo heard about the prospect of three homes being built he was upset; that Mr. Perillo has disabilities and didn’t want the property developed; that he approached the people in charge of his trust and they purchased the property from Max Jacobs; that Mr. Jacobs purchased the property for \$650,000.00 and sold it a year later to Mr. Perillo for 1.2 million dollars; that Mr. Pedro is Mark Perillo’s cousin and has been living in the house for two years so that he can take care of Mr. Perillo; that the trust would like to give the house to Mr. Pedro and save the property behind the house as it is, at least until Mr. Perillo’s death.

Jay Greenwell, testified that that the Planning Board objected to the original configuration which made a figure eight added this rear lot to Mr. Perillo’s lot; that they suggested a clear lot line and entrance; that at the last Planning Board meeting the proposed conservation easement was increased to 100’ x 200’; that a covenant was offered that lot #2 would never be further subdivided; that the variances being requested for lot #1 can be explained as follows: the front yard is caused by the road widening, the building height is currently non-conforming and taking the 20’ wide strip for the proposed lot #2 changes the side yard and the building height requirements; that the total side yard is also caused by the same 20’ going to lot #2; that one of the proposals included an easement for the 20’ wide driveway but the Planning Board wanted that property to belong to lot #2; that the proposed conservation easement is larger than the required size of a lot in the R-15 zoning district; that the building envelope shown for lot 32 does not require any variances; that lot #2 does need the street frontage variance; that the 20’ wide driveway is large enough for emergency vehicles; that if it weren’t the new building code would require the new house to be sprinklered; that any development of vacant land requires public meetings before it can be developed; that means notices, posters, publication; that trees drainage and house plans will be reviewed at the time of development; that right now nothing is being built; that they have no objection to a

condition of approval that states that the property would not be developed until after Mr. Perillo's death.

Public Comment:

John Taylor, 11 Perillo Court, testified that he purchased his house four years ago; that he is concerned about storm drainage, emergency access, quality of life, and the effect on property values; and that he has heard conflicting stories about development.

Brian Freer, 7 Perillo Court, testified that it's a nice story about Mark Perillo needing parkland but once the property is subdivided a house can be built there and he objects to the easement driveway.

Joe Connelly, 3 Perillo Court, testified that no one forced Mark Perillo to pay what he did for the property; that the drawing is showing a house in his backyard and the driveway abuts his.

Gary Dizziness, 3 Butternut, testified that he agrees with the gentlemen that spoke before him; and that he lives west of the proposed project.

Kurt Spiegel, 26 Guttman Street, testified that he objects to the flag lot; that he has traffic concerns ; that this proposal causes a fire risk; and it is too close in proximity.

Nick Dispenzieri, 27 Guttman Lane, testified that he is against the easement; that he has lived in Pearl River for 14 years and moved here from Queens; that if the Boards keep permitting flag lots, the area is going to start looking like Queens.

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 lot width, front yard, side yard, total side yard and building height variances for lot #1 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. There are not any changes proposed for the existing house on lot #1; the front yard variance is being increased because of the road widening dedication. The side yard, total side yard and building height changes are occurring because of the twenty foot wide driveway that will belong to proposed lot #2. The street frontage variance for lot #2 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties as evidenced by the tax map showing other flag lots that are existing in the immediate area.
2. The applicant has agreed to execute and file a restrictive covenant in the County Clerk's Office for lot #2 stating that it shall never be further subdivided and that the proposed conservation easement for lot #2 has increased to 100' x 200'; and both shall be filed with the County Clerk. The applicant has also agreed to execute and file a restrictive covenant in the County Clerk's Office, stating that lot #2 shall not be developed until Mark Perillo expires. All said legal instruments shall be in form and substance satisfactory to the Town Attorney.

3. The requested lot width, front yard, side yard, total side yard and building height variances for lot #1 and the street frontage variance for lot #2 will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. There are not any changes proposed for the existing house on lot #1; the front yard variance is being increased because of the road widening dedication. The side yard, total side yard and building height changes are occurring because of the twenty foot wide driveway that will belong to proposed lot #2. The street frontage variance for lot 32 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties as evidenced by the tax map showing other flag lots that are existing in the immediate area.
5. The requested lot width, front yard, side yard, total side yard and building height variances for lot #1 and street frontage variance for lot #2, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new tax lot, 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 width, front yard, side yard, total side yard and building height variances for lot #1 and street frontage variance for lot #2 are APPROVED with the FOLLOWING SPECIFIC CONDITIONS: (1) that a restrictive covenant shall be executed by fee simple title owner of the subject real property, acceptable in form and substance to the Town Attorney to the effect that lot #2 shall never be resubdivided or further subdivided, nor should it be developed until Mark Perillo expires; (2) a 100' x 200' conservation easement for the rear portion of lot #2 shall be filed executed by said owner, acceptable in form and substance to the Town Attorney be submitted and filed with the Town Attorney and recorded in the County clerk's Office; (3) lot #2 shall appear before the Planning Board, and obtain site development plan approval, before the issuance of a building permit; 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 width, front yard, side yard, total side yard, and building height variances for lot #1 and the street frontage variance for lot #2 was presented and moved by Ms. Albanese, seconded by Mr. Mowerson, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, nay; and Mr. Mowerson, aye. Ms. Castelli was absent.

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

DATED: July 15, 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 -N.A.

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

DECISION

BUILDING HEIGHT VARIANCE APPROVED

To: Sean and Kathy Lynskey

ZBA #09-47

111 Derfuss Lane

Date: 7/ 15 / 09

Blauvelt, New York 10913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-47: Application of Sean and Kathy Lynskey for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown Section 3.12, R-15 District, Group M,

Column 12 (Building Height: 20' permitted, 21' 9" existing, 25' 7" proposed) for an addition to an existing single-family residence. The premises is located at 111 Derfuss Lane, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 68.20, Block 2, Lot 52; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 15, 2009 at which time the Board made the determination hereinafter set forth.

Sean and Kathy Lynskey and John Perkins, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 5/11/09 (2 pages) with the latest revision date of 6/8/09 signed or sealed by John Perkins, Architect.
2. Survey dated August 30, 1995 signed and sealed by Robert Rahnefeld, L.S.
3. Seven pages of pictures of other additions in the area and Google maps with their locations.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, 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. Albanese and carried as follows: Ms. Salomon, aye; Ms. Albanese, aye; Mr. Sullivan, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

John Perkins, Architect, testified that the lots on Derfuss Lane are very narrow; that the height of the addition causes the need for a variance because it is based on the left side yard of 16.9'; that the Lynskeys' purchased the house seven years ago and have four children ages 2,14, 4 and 5; that they want to make four usable bedrooms and presently have three bedrooms; that they want to bump out the rear of the house and the front of the house; that downstairs they want to add a great room, increase the size of the kitchen and have all four bedrooms upstairs; that in the end they will have three bathrooms; that the house will be in keeping with the character of the neighborhood; that the style of the house will change from a Cape cod to Colonial and the total increase in height will be 6' from what is presently existing.

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 building height 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 building height 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 building 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 building height 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 building height variance was presented and moved by Ms. Albanese, seconded by Mr. Sullivan, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

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

DATED: July 15, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR –B.vW.

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

DECISION

FRONT YARD VARIANCE APPROVED

To: Joseph and Janice Martin

ZBA # 09-48

45 Horan Place
Tappan, New York 10983

Date: 7/ 15 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-48: Application of Joseph and Janice Martin for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown R-15 District, Section 3.12, Group M, Column 8 (Front Yard: 30’ required, 26.05’ proposed) for an addition to an existing single family residence. The premises are located at 45 Horan Place, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.12, Block 1, Lot 25; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 15, 2009 at which time the Board made the determination hereinafter set forth.

Janice and Joseph Martin appeared and testified.

The following documents were presented:

1. Architectural plans dated 5/12/09 (1 page) signed or sealed by Eric Osborne, Architect.
2. Survey dated March 25, 1964 not signed and sealed by Warren M. Hook, L.S.

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

Joseph Martin testified that they are planning to turn the front steps toward the street; with a portico over them; that they have owned the house for ten years and the way the steps are to the side combined with the way the door opens is not safe; and that they have a building permit for the work that they are doing in the kitchen.

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 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 front yard 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 front yard variance although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
5. The applicant 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 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 front yard variance was presented and moved by Mr. Sullivan, seconded by Ms. Salomon, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

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

DATED: July 15, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

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

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

DECISION

FRONT YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Nora and Timothy Cullen

ZBA #09-49

115 Sgt. Amory Avenue
Pearl River, New York 10965

Date: 7/ 15 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-49: Application of Nora and Timothy Cullen for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, R-15 District, Group M, Columns 8 (Front Yard: 30' required, 26' existing, 21' proposed) and 12 (Building Height: 1' per foot , 15.5' permitted; 18' proposed) for an addition to an existing single-family residence. Premises are located at 115 Sgt. Amory Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 64.17 Block 3 Lot 23; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 15, 2009 at which time the Board made the determination hereinafter set forth.

Nora and Timothy Cullen and Douglas Siebenaler, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 3/4/09 (2 pages) signed or sealed by Douglas Siebenaler, Architect.
2. Survey dated April 22, 2009 signed and sealed by Robert E. Sorace, L.S.
3. A letter dated July 2, 2009 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
4. A letter dated July 8, 2009 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
5. A letter dated July 7, 2009 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
6. Two letters in support of the application.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, 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. Albanese and carried as follows: Ms. Salomon, aye; Ms. Albanese, aye; Mr. Sullivan; aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

Douglas Siebenaler, Architect, testified that the Cullen's are proposing to bring the second story of the home into compliance with code; the existing ceiling height on the second floor is only six foot; that they are raising the ceiling height of 7.6' to be in compliance; that they are also adding a front porch to conceal the addition to the second floor; that many of the houses in the area have additions; and that this is a minimal addition to accommodate the family.

Nora Cullen testified that she presently has her six year old son and one year old daughter in the same room because she wants all of the bedrooms on one floor; that she is too uncomfortable to sleep on a different level than the kids; and that there are several other homes in the area that have done similar additions.

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 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 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 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 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 and building height variances was presented and moved by Mr. Mowerson, seconded by Ms. Salomon, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

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

DATED: July 15, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS

TOWN CLERK
HIGHWAY DEPARTMENT
ASSESSOR
DEPT. of ENVIRONMENTAL

DECISION

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

To: Leonard and Barbara Sullivan

ZBA #09-50

201 Oak Tree Road

Date: 7/ 15 / 09

Tappan, New York 10983

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-50: Application of Leonard and Barbara Sullivan for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, Group M, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .274 proposed), 8 (Front Yard; 30' required, 14' existing, 12.75' proposed), 9 (Side Yard: 20' required, 13.6' proposed) 10 (Total Side Yard: 50' required, 40.02' proposed) and 12 (Building Height: 13.6' permitted, 25' 6 ½ " proposed) for an addition to an existing single-family residence. The premises are located at 201 Oak Tree Road, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.15, Block 1, Lot 29; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 15, 2009 at which time the Board made the determination hereinafter set forth.

Leonard and Barbara Sullivan and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 6/1/09 (3 pages) with the latest revision date of 6/5/09 signed or sealed by Jane Slavin, Architect.
2. Plot plan signed and sealed by Jane Slavin, Architect, based on survey by John E. Collazoul, L.S. dated Nov. 22, 19995
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 June 16, 2009 from the County of Rockland Department of Planning.
5. A letter dated June 30, 2009 from the County of Rockland Drainage Agency signed by Edward F. Devine, Executive Director.
6. A letter dated July 7, 2009 from the County of Rockland Sewer District No.1 signed by Joseph laFiandra, Engineer II..
7. Five letters of support from abutting property owners.
8. A letter of explanation from Leonard and Barbara Sullivan.

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

Leonard Sullivan testified that he and his wife have three daughters aged 9,7 and 6; that their house is an older home with very small bedrooms and no closets; that they need more bedroom space and closets; that they plan to make the kitchen larger and share it with Barbara's mom; that he could add drywells if that is necessary; and he wanted the extra space in the garage for storage.

Barbara Sullivan testified that her mother has given up a lot for the family; that they want to give her a space of her own with some privacy; that the privacy is important to her; that she lives on a fixed income and this would help her and her granddaughters are so excited to have grandma live with them; and that she believes the nuclear family is a good thing.

Jane Slavin, Architect, testified that there is a minor change to front yard from the existing non-conforming 14' to the 12.75' proposed front yard; that the addition makes sense on this side of the house since it is adjacent to the bar; that the other side of the property is an open yard; and the floor plan inside also makes sense for the addition to be placed where it is because the existing room is long and narrow and when expanded will give Mrs. Quinn a nice private wing; that the existing bathroom will be shared; that there is no way to do any addition to this house without getting variances; and that this house has been in Sullivan family for years.

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. Sullivan and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio, front yard, 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. Similar additions have been constructed in the area.
2. The requested floor area ratio, front yard, 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. 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, front yard, side yard, total 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 floor area ratio, front yard, 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, front yard, side yard, total side yard and building height variances was presented and moved by Ms. Salomon, seconded by Ms. Albanese, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

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

DATED: July 15, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

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

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

DECISION

FRONT YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: Anne Schwartz

ZBA # 09-51

106 South Naurashaun Road
Pearl River, New York 10965

Date: 7/ 15 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-51: Application of Anne Schwartz for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, R-15 District, Group M, Columns 8 (Front Yard: 30' required, 22' proposed) and 10 (Total Side Yard: 50' required, 41' proposed) for an addition to an existing single-family residence. Premises are located at 106 South Naurashaun Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.18 Block 4 Lot 22; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 15, 2009 at which time the Board made the determination hereinafter set forth.

Elizabeth and Patricia Schwartz and Jane Slavin, Architect appeared and testified.

The following documents were presented:

1. Architectural plans dated 3/9/09 (1 page) signed or sealed by Jane Slavin, Architect.
2. Plot plan based on survey dated March 1, 1955 by William Yuda, P.E, signed and sealed by Jane Slavin, Architect..
3. Pictures of other additions in the neighborhood.

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

Elizabeth Schwartz testified that her mom and dad purchased their home in 1960; that her dad died eleven years ago; that her mom has a physical condition that makes it difficult to do stairs; that the house is a split level and they would like to add a handicap accessible

bathroom and a bedroom on the main living level so that her mom does not have to climb stairs.

Jane Slavin, Architect, testified that the proposed addition is 14' x 23'; that they would also like to cantilever the steps with a 3' projection to protect the entryway from the weather; that this is the minimum addition that could be built and still be handicap accessible; that it is in keeping with the character of the neighborhood because many other splits in the area have done additions.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard and total 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 front yard and total 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 front yard and total 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 front yard and total 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 front yard and total side yard variances was presented and moved by Ms. Albanese, seconded by Mr. Sullivan, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

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

DATED: July 15, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

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

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

DECISION

**PARKING REQUIREMENT, SIDE YARD AND REAR YARD VARIANCES
APPROVED**

To: Robert Hoene (Blauvelt Library)

ZBA # 09-52

379 Piermont Avenue

Date: 7/ 15 / 09

Piermont, New York 10968

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-52: Application of Blauvelt Free Library for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, CS District, Group FF, Columns 6 #3 (One Parking Space for each 200 sq. ft. gross floor area but not less than One space for each five seats: 39 spaces required, 8 spaces provided), 9 (Side Yard: 0/12' required, 22.5' proposed), and 11 (Rear Yard: 25' required, 12.5' existing, 3.25' proposed) for an addition to the existing library. Premises are located at 541 Western Highway, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.14 Block 2 Lot 45; CS zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 15, 2009 at which time the Board made the determination hereinafter set forth.

Robert Hoene, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 3/31/04 (1 page) with the latest revision date of 4/13/09 signed or sealed by Robert Hoene, Architect.
2. Planning Board decision #09-30 dated May 27, 2009.
3. A letter dated May 26, 2009 from the County of Rockland Department of Highways signed by Sonny Lin, P. E..
4. A letter dated July 15, 2009 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
5. A letter dated April 29, 2009 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
6. A letter dated April 28, 2009 from the County of Rockland Drainage Agency signed by Edward F. Devine, Executive Director.

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 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, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3)(iii); and since the Planning Board conducted SEQRA review on May 27, 2009 and rendered environmental determination of no significant adverse environmental impacts to result from the proposed land use actions (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 SEQRA review pursuant to SEQRA regulations § 617.6 (b)(3)(iii). The motion was seconded by Ms. Albanese and carried as follows: Ms. Salomon, aye; Ms. Albanese, aye; Mr. Sullivan; aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

Robert Hoene, Architect, testified that the library is proposing a small addition to the rear of the library over the grass area; that the expansion would be 350 sq. ft. and enlarge the existing office area and book area; that John Giardiello agreed to the submission of a partial site plan; that the Planning Board did not ask for a drainage plan because the addition is small; that the parking is not changing; that it has been this way and there has never been a problem with it; and if there is a parking agreement with the property to the east it should be in the previous files.

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. Sullivan and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested parking requirement, side yard, and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The 350 sq. ft. addition is for expanded office and book storage and does not affect the number of patrons visiting the Library or increase the number of employees.
2. The requested parking requirement, side yard, and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The 350 sq. ft. addition is for expanded office and book storage and does not affect the number of patrons visiting the Library or increase the number of employees.
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 parking requirement, side yard, and rear 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.

Mr. Sullivan made a motion to over ride modification #1 of the Rockland County Department of Planning letter dated July 15, 2009, stating that he agrees with the Orangetown Planning Board that a full site plan is not necessary for this application because of the size of the proposed addition and its proposed use and the parking conditions are not changing; which motion was seconded by Mr. Mowerson and carried

unanimously.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested parking requirement, side yard, and rear 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 parking requirement, side yard, and rear yard variances was presented and moved by Mr. Sullivan, seconded by Mr. Mowerson, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

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

DATED: July 15, 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

