

MINUTES
ZONING BOARD OF APPEALS
July 16, 2008

MEMBERS PRESENT: PATRICIA CASTELLI
 WILLIAM MOWERSON
 JOHN DOHERTY
 DANIEL SULLIVAN

ABSENT: NANETTE ALBANESE

ALSO PRESENT: Dennis Michaels, Esq. Deputy Town Attorney
 Kathryn LeBeau, Official Stenographer
 Deborah Arbolino, Administrative Aide

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEM:

RIVERSIDE HOMES 78.18 / 1 / 47; R-80 zone	DENIED	ZBA#08-52
HOLLOWS AT BLUE HILL TEMPORARY SIGNS 73.05 / 1 / 53.2; PAC zone	TEMPORARY SIGN VARIANCE APPROVED AS MODIFIED FOR ONE YEAR	ZBA#08-61

NEW ITEMS:

MC ALEER 68.14 / 2 / 81; R-15 zone	TOTAL SIDE YARD VARIANCE APPROVED WITH CONDITION	ZBA#08-68
SHIELDS 68.20 / 3 / 21; RG zone	FLOOR AREA RATIO, AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#08-69
MAY 73.16 / 1 / 7; R-22 zone	FRONT YARD VARIANCE APPROVED	ZBA#08-70
ANSELM I 69.05 / 2 / 49; R-15 zone	FLOOR AREA RATIO, FRONT YARDS AND SIDE YARD VARIANCES APPROVED	ZBA#08-71
NOONAN 69.09 / 5 / 70; R-15 zone	FRONT YARD, AND SECTION 4.5 VARIANCES APPROVED WITH COVENANT	ZBA#08-72
ORANGBURG RACQUET CLUB 77.05 / 1 / 1; LIO zone	NEW YORK STATE TOWN LAW § 280-a EXCEPTION GRANTED FRONT YARD, SIDE YARD VARIANCES APPROVED; BUILDING HEIGHT VARIANCE DENIED	ZBA#08-73

DR. EDWARD FISHER
74.18 / 3 / 35; CS zone

FRONT YARD, ZBA#08-74
REAR YARD AND PARKING
SPACE VARIANCES APPROVED

MURPHY
69.14 / 2 / 22; R-15 zone

CONTINUED ZBA#08-75

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 12:30 A.M.

Dated: July 16, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

DISTRIBUTION:

Deborah Arbolino
Administrative Aide

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

DECISION

SIDE YARD, REAR YARD AND FLOOR AREA RATIO VARIANCES DENIED

To: Max Jacobs

ZBA # 08- 52

220 Willow Tree Road
Monsey, New York 10952

Date: 6 / 18 / 08 & 7 / 16 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-52: Application of Riverside Homes of Nyack Inc. for variances from Chapter 43, Section 3.12, R-80 District, Group A, Columns 4 (Floor Area Ratio: .10 permitted, .134 proposed), 9 (Side Yard: 30' required, 10' proposed) and 11 (Rear Yard: 40' required, 35' proposed) for a detached two-car garage at a new single-family residence. The premises are located at 10 Woods Road, Palisades, New York, and are identified on the Orangetown Tax Map as Section 78.18, Block 1, Lot 47; R-80 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, June 18, 2008 and July 16, 2008 at which time the Board made the determination hereinafter set forth.

Max Jacobs and Marvin Putter appeared and testified.

The following documents were presented over the course of the meetings:

1. Plot plan for Riverside Homes of Nyack dated April 16, 2008 with revision dates of May 29, 2008 and June 23, 2008 signed and sealed by Robert Rahnefeld, P.L.S.
2. Architectural plans dated November 28, 2007 signed and sealed by Robert Hoene, Architect.
3. A letter dated July 1, 2008 from Paul Goldman, 50 Woods Road, Palisades.

At the meeting of June 18, 2008 Max Jacobs testified that he would like to build a detached two-car garage with a low pitched roof positioned on the lot at the end of the driveway; that it would be screened from the neighbors by the 6' fence that is on three sides of the property; and that he would like a continuance to have the professionals check the requested floor area ratio variance.

Public Comment:

Carol Baustian, 4 Woods Road, testified that she is an abutting property owner; that she objects to the floor area ratio; that it is excessive; that she did the calculations and came to the conclusion that the requested floor area ratio should be .134; that the impacts on the rear and side yards changes the character of the neighborhood; that this is a small lot with a small lawn; that the previously approved house had an attached garage; that the approved space for the attached garage is now being used for more house; that it is not the norm for this area to have any garage at all; and detached garages are not common in the neighborhood; that the applicant did not show any hardship; that the detriment to the neighborhood outweighs the applicants need to make more money on the property; and that the house and garage should not exceed the size set forth by existing zoning.

At the meeting of July 16, 2008 Max Jacobs and Marvin Putter appeared and testified.

Max Jacobs testified that new site plans were submitted which show a 35' rear yard, 10' side yard and a floor area ratio of .134; that the property has been substantially improved by removing the existing concrete block house that had broken windows graffiti and mold; that a variance was approved for a detached garage of similar size on similar size lot on Washington Spring Road; that the garage would not interfere with any privacy because of the existing 6' fence; that the house is very small under 2,000 sq. ft.; that taking 450 sq. ft. off of that for the garage left a very small and awkward first floor without a coat closet or bathroom on the first floor; that he is planning on building a green house; that would be environmentally sound, energy efficient at his own expense; that the green house would probably cost 10 – 25% more to build; that there would be no petroleum based products used to construct it; and that it would probably be the first of its kind in the County.

Marvin Putter testified that the lot is only 19,700 sq. ft.; that the proposed garage does not intrude on anyone; that it is set back on the lot and does not intrude on sunlight or views for anyone; that the existing fence would cover $\frac{3}{4}$ of it; that there is no height variance needed; and that the floor plan for the original house was poorly planned without a bathroom or hall closet.

Public Comment:

Carol Basutian, 4 Woods Road, testified that she objects to the 35% increase in floor area ratio; that the granting of the variances would cause an undesirable change in the character of the neighborhood; that this is a small lot with a large dwelling proposed for it; that there is a 700 sq. ft. basement and 400 sq. ft. attic in the house; that two car garages are not the norm for the neighborhood; that she has a one-car attached garage; that there are 10 -12 houses in the area with no garage; and one with a two car garage; that there is no clear need for the garage; and that the absence of a garage does not prove a hardship.

Richard Saunders, 4 Woods Road, testified that 34 -35 % over the floor area ratio is a lot;

that there was a garage that they are choosing to turn into a master bedroom suite; that they made these changes already when they poured the foundation because there is no slab for the garage; that there is no need only speculation of profit; that consideration should be given to the neighbors; that the garage will be totally out of character in the neighborhood; and that the “green house” is a red herring.

The Board members made personal inspections of the premises the week before the meetings 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.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, the Board found and concluded that the benefits to the applicant if the variance(s) are granted do not outweigh the detriment to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested side yard, rear yard and floor area ratio variances would produce an undesirable change in the character of the neighborhood and a detriment to nearby properties. The lot is small and oddly shaped and the proposed two-car garage would require three area variances.
2. The requested side yard, rear yard and floor area ratio variances would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought can be achieved by other means feasible for the applicant other than obtaining variances; the applicant can choose to build the house that was originally approved with an attached garage.
4. The requested side yard, rear yard and floor area ratio variances are substantial and the applicant failed to demonstrate the need for them.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals and in this case is a factor in precluding 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 side yard, rear yard and floor area ratio variances is DENIED; 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 deny the application for the requested variance was presented and moved by Ms. Castelli, seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Doherty, aye. Ms. Albanese 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 16, 2008

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

TEMPORARY SIGN VARIANCE APPROVED AS AMENDED FOR ONE YEAR

To: Donald Brenner (Hollows at Blue Hill)

ZBA # 08- 61

4 Independence Avenue
Tappan, New York 10983

Date: 7 / 16 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-61: Application of The Hollows at Blue Hill, LLC for a variance from Chapter 43, Section 4.26 (a) Subdivision Signs: (60 sq. ft. permitted; 900 sq. ft. existing) for temporary signs at a new adult community complex. The Hollows at Blue Hill are located on the north side of Veterans Memorial Drive at the intersection of Hilton Hotel Drive, Pearl River, New York and are identified on the Orangetown Tax Map as Section 73.05, Block 1, Lot 53.2; PAC zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 16, 2008 at which time the Board made the determination hereinafter set forth.

Ed Lane and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Pictures of the existing signs.
2. A letter dated March 24, 2008 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
3. A letter dated March 3, 2008 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
4. A memorandum dated March 24, 2008 from Douglas Schmidt, Building Plans Examiner, Town of Orangetown.

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

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

Donald Brenner testified that the County of Rockland always denies sign variances; that these are temporary signs; that this is a large project on a large property; that sales are in a holding pattern because of the economy; that the signs are very attractive and installed behind the County right-of-way; that Bradley Corporate Park has had a large sign up on Route 303 for years; that the small movable signs could be removed; and that in this market permitting the signs for one year would be helpful.

Ed Lane testified that they have done a survey of people visiting the site to see where they heard about the development; that about one-third read ads in the Journal News, one-third come from ads placed in the Bergen Record and another third come in because they see the signs; that this is a very difficult market and the signs are helping bring people in to the site; that he hopes that he does not need the temporary signs for very long; that the signs were designed for the site; that they are done in good taste; that he would request that the two signs along the road and the sign on the sales trailer be permitted to stay because they are helping in this difficult market; that he will remove all of the smaller portable signs; that the signs on the trailer direct people to the sales trailer; that if the Board wants only one sign on the trailer he will comply; and that he hopes that he sells all the units within six months but it doesn't seem likely given the economy; and that he would like to keep the temporary signs for one year.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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 temporary sign variance as modified would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
2. The requested temporary sign variance as modified would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.
4. The requested temporary sign variance as modified although substantial is approved for one year commencing from the date this decision is stamped and filed.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the temporary sign variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested temporary sign variance as modified is APPROVED for ONE YEAR from the date of this stamped decision with the FOLLOWING MODIFICATIONS; (1) All state signs shall be removed; (2) One 30' x 2' sign is permitted on the sales trailer; (3) one sign 68.5 x 5' is permitted at the entrance by the Hilton; (4) One 49' x 7' sign is permitted by the west entrance; (5) All temporary signage shall not exceed 710 ½'; 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 temporary sign variance as modified and conditioned was presented and moved by Mr. Mowerson , seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Mr. Sullivan, aye. Ms. Albanese 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 16, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -L.P.

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

DECISION

TOTAL SIDE YARD VARIANCE APPROVED WITH CONDITION

To: Shane and Mary Mc Aleer

ZBA # 08-68

59 Adams Court

Date: 7 / 16 / 08

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-68: Application of Shane and Mary Mc Aleer for a variance from Chapter 43, Section 3.12, R-15 District, Group M, Column 10 (Total Side Yard: 50' required, 42.75' proposed) for a garage extension at an existing single-family residence. The premises are located at 59 Adams Court, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.14, Block 2, Lot 81; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 16, 2008 at which time the Board made the determination hereinafter set forth.

Shane Mc Aleer appeared and testified.

The following documents were presented:

1. Architectural plans dated June 18, 2008 signed and sealed by Sanford Lent, P.E.
2. Survey dated February 12, 2003 signed and sealed by Robert Sorace, PLS.

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

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

Shane Mc Aleer testified that he would like to add a two car garage to his house; that the house does not have a basement and there s no place for storage; that he has two sheds; that the 10 x 10 shed is permanent; that the 14' x 12' shed is a temporary structure that his using for storage; that he would remove that structure if he could build the garage; that the garage would help him de-clutter the property; and that it would give him space for patio and garden items to be stored.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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 total side yard variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The temporary 14' x12' shed shall be removed before a certificate of occupancy is issued for the proposed garage.
2. The requested total side yard variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.
4. The requested total side yard variance is not substantial.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested total side yard variance is APPROVED with the FOLLOWING SPECIFIC CONDITION; (1) The 14' x 12' temporary shed shall be removed before the issuance of a certificate of occupancy is issued for the proposed garage; 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 total side yard variance with condition was presented and moved by Mr. Sullivan , seconded by Ms. Castelli, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Mr. Sullivan, aye. Ms. Albanese 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 16, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
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OBZPAE
BUILDING INSPECTOR –J.P.

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

DECISION

FLOOR AREA RATIO AND BUILDING HEIGHT VARIANCES APPROVED

To: Thomas and Linda Shields

ZBA # 08- 69

150 Grove Street

Date: 7 / 16 / 08

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08- 69: Application of Thomas and Linda Shields for variances from Chapter 43, Section 3.12, RG District, Group Q, Columns 4 (Floor Area Ratio: .30 permitted, .35 proposed), and 12 (Building Height: 20’ permitted, 25’ proposed) (Section 5.21 Undersized lot applies) for an addition to an existing single-family residence. The premises are located at 150 Grove Street, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.20, Block 3, Lot 21; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 16, 2008 at which time the Board made the determination hereinafter set forth.

Tom and Linda Shields and Vincent Acocella, architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 6/12/08 signed and sealed by Vincent Acocella, Architect.
2. Site plan based on survey by Aristotle Bournazos 8/20/83.
3. Five pictures of the existing house.

On advice of Mr. Michaels, Attorney 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) &/or (13), which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Doherty, aye. Ms. Albanese was absent.

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

Vincent Acocella, Architect, testified that the applicants are his daughter and son-in-law; that the existing house is a 28' x 40' ranch style house; that the plan calls for a 10' extension out the back and a second floor; that his daughter wants to stay in the house because it is at the end of a dead-end street and is a great place for the kids; that the pictures show that the house is small; that the family has three children aged 12, 8 and 4; that as the kids get older the house seems smaller; and the existing floor area ratio is .29; that the house to the west is much higher than the proposal; and there is another house that sits lower than this one.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio and building height variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar sized houses exist in the neighborhood.
2. The requested floor area ratio and building height variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested floor area ratio and building height variance although substantial do not change the character of the neighborhood.

5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio and building height variances is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested floor area ratio and building height variances was presented and moved by Mr. Mowerson, seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Mr. Sullivan, aye. Ms. Albanese 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 16, 2008

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 VARIANCE APPROVED

To: Hector and Sonya May

ZBA # 08-70

3 Dutchess Drive
Orangeburg, New York 10962

Date: 7 / 16 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-70: Application of Hector and Sonya May for a variance from Chapter 43, R-22 District, Section 3.12, Group I, Column 8 (Front Yard; 40' required, 33' proposed) for an addition to an existing single-family residence. The premises are located at 3 Dutchess Drive, Orangeburg, New York, and are identified on the Orangetown Tax Map as Section 73.16, Block 1, Lot 7; R-22 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 16, 2008 at which time the Board made the determination hereinafter set forth.

Kim Thomas Sippel, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 5/30/08 signed and sealed by Kim Thomas Sippel, Architect.

On advice of Mr. Michaels, Attorney 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 § 617.5 (c) (9), (10), (12) and /or (13), Regulations which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Doherty, aye. Ms. Albanese was absent.

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

Kim Thomas Sippel, Architect, testified that Mr. and Mrs. May are away on vacation; that the existing house has a wood deck out front with no covering; that Mrs. May broke her ankle for the second time last winter and that is how this proposal came about; that they would like to remove the decking and install a patio with a roof over it and a handicapped entrance that would have a hand rail with a paved court area for the car; and

that the covered roof would have open sides.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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 would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested front yard variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.
4. The requested front yard variance is not substantial.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested 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. Doherty , seconded by Ms. Castelli, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Mr. Sullivan, aye. Ms. Albanese 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 16, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR –J.P.

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

DECISION

FLOOR AREA RATIO, FRONT YARDS, SIDE YARD VARIANCES APPROVED

To: Matthew and Denise Anselmi

ZBA # 08- 71

42 Secor Boulevard
Pearl River, New York 10965

Date: 7 / 16 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-71: Application of Matthew and Denise Anselmi for variances from Chapter 43, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .294 proposed), 8 (Front Yard: 30' required, 20.70' and 20' proposed – two front yards), 9 (Side Yard: 20' required, 19.7' proposed), and 10 (Total Side Yard: 50' required, 49.7' proposed) for a new modular single-family residence. The premises are located at 42 Secor Boulevard, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.05, Block 2, Lot 49; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 16, 2008 at which time the Board made the determination hereinafter set forth.

Matthew and Denise Anselmi appeared and testified.

The following documents were presented:

1. House plans by Westchester Modular Homes, Inc. not dated signed or sealed.
2. Zoning Board decision #07-24 dated 3/21/07.
3. A letter dated June 25, 2008 from Matthew and Denise Anselmi.

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

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

Matthew Anselmi testified that last year they requested and received variances from this Board which would have permitted a home renovation that would accommodate their growing family; that they could not follow through with that plan because of the prices exceeded their planned budget; that they have spent the last year researching other alternatives and have concluded that a modular home is the most efficient and affordable option; that that the house that they selected requires the same variances that were previously granted; that the floor area ratio would be reduced slightly from the granted .30 to .2989; that they do have two front yards; and that they appreciate the Board's consideration.

Denise Anselmi testified that they have owned the house for twelve years; that they have four children and one more due in October; and that they really need more space.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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 yards, side yard and floor area ratio variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board found this application to have two front yards 20' & 20.7'; a side yard of 19.7'; and a floor area ratio of .2989 and that no significant change in circumstances has occurred since the instant variances were granted which would warrant Board reconsideration of their approval.
2. The requested floor area ratio, front yards and side yard variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested variances are not substantial.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested floor area ratio, side yard and front yards variances is **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

(iv) A building permit as well as any other necessary permits must be obtained within a

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

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

The foregoing resolution to approve the application for the requested floor area ratio, side yard and front yards variances was presented and moved by Ms. Castelli, seconded by Mr. Sullivan and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Mr. Sullivan, aye. Ms. Albanese 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 16, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -J.P.

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

DECISION

FRONT YARD, SECTION 4.5 VARIANCES APPROVED WITH COVENANT

To: Thomas and Sinead Noonan

ZBA # 08-72

115 Sunset Boulevard

Date: 7 / 16 / 08

Blauvelt, New York 10913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-72: Application of Thomas and Sinead Noonan for variances from Chapter 43, R-40 District, Section 3.12, Group E, Column 8 (Front Yard: 50' required, 39 proposed) and Column 3 (Uses: Single-family residence permitted: two-family existing). The premises are located at 115 Sunset Road, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.09, Block 2, Lot 9; R-40 zone

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 16, 2008 at which time the Board made the determination hereinafter set forth.

Thomas and Sinead Noonan, Donald Schwetter, Architect, and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Architectural plans dated 5/12/08 signed and sealed by Donald Zachary Schwetter, Architect.
2. A letter dated July 10, 2008 from an abutting property owner.

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

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

Donald Brenner, Attorney, testified that they can certify that the house is not going to be a three family house; that the Noonan's can testify to what they are doing.

Thomas Noonan testified that the family has grown since they purchased the house; that they have five children aged 12,8,6,5 and 1; that they have four bedrooms and would like to add another one; that they want to enlarge the kitchen and add a family room; that they purchased the house with the in-law apartment for his wife's parents; that they have no problem filing a covenant; that they thought they purchased a mother-daughter house; that their tax bills state "two-family" which made him think that it was a legal two-family house; that they have no problem with a covenant for family members or converting it back into a single-family residence.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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 § 4.5 variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area and the applicants purchased

the house with the existing apartment and are willing to file a restrictive covenant proscribing that the dwelling must be owner-occupied.

2. The requested front yard and § 4.5 variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested variances are not substantial.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested front yard and § 4.5 variances is APPROVED with the FOLLOWING CONDITIONS: (1) The Zoning Board of Appeals is not granting a use variance for occupancy of the home as a two-family residence, but rather the Zoning Board of Appeals is recognizing the pre-existing status of the home as a single-family conversion as contemplated and governed by § 4.5 of the Orangetown Zoning Code (Chapter 43); (2) Applicants/owners shall execute a restrictive covenant to be filed in the Rockland County Clerk's Office proscribing that the dwelling must be owner-occupied and the accessory (or second) dwelling unit must be occupied by an immediate family member, and that if the dwelling ceases to be owner-occupied, or the accessory (or second) dwelling unit ceases to be occupied by an immediate family member, the dwelling automatically reverts to only one dwelling unit, (i.e. a single-family residence) ; 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 §4.5 variances was presented and moved by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Mr. Sullivan, aye. Ms. Albanese 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 16, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
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TOWN ATTORNEY
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OBZPAE
BUILDING INSPECTOR -J.P.

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

DECISION

**NEW YORK STATE TOWN LAW § 280-a EXCEPTION GRANTED;
FRONT YARD, SIDE YARD VARIANCES APPROVED;
BUILDING HEIGHT VARIANCE DENIED**

To: Donald Brenner (Orangeburg Racquet Club) ZBA # 08- 73

4 Independence Avenue
Tappan, New York 10983

Date: 7 / 16 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-73: Application of Orangeburg Racquet Club for an exception from New York State Town Law, Section 280-a (Relation of structure to streets or highways) and for variances from Chapter 43, Section 3.12, LIO District, Group CC, Columns 8 (Front Yard: 100' required, 24.96 proposed), 9 (Side Yard: 100' required, 60.48' proposed), 10 (Total Side Yard: 200' required, 166.39' proposed) and 12 (Building Height: 25' permitted, 30' proposed) for a proposed racquet club. The site is located at Ramland Road South, Orangeburg, New York, and are identified on the Orangetown Tax Map as Section 77.05, Block 1, Lot 1; LIO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 16, 2008 at which time the Board made the determination hereinafter set forth.

Barry Poskanzer, Architect and Donald Brenner, Attorney, and Michael Piatza, Real Estate Broker, appeared and testified.

The following documents were presented:

1. Proposed site plan dated 7/17/06 revised 1/16/08 signed and sealed by Barry Poskanzer, Architect.
2. Plans signed and sealed by Peter Jon Wilner, P.E. (9 pages) dated 1/16/09, 3/17/08 with the latest revision dated of 4/2/08.
3. Indoor court building enclosure recommendations.
4. Planning board decision #08-14 dated April 9, 2008.
5. A letter dated June 17, 2008 from the County of Rockland Department of Planning.
6. A letter dated July 14, 2008 from the County of Rockland Sewer District No.1 signed by Joseph LaFiandra, Engineer II.

On advice of Mr. Michaels, Attorney to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is an Unlisted action under the State Environmental Quality Review Act (SEQRA), and that since the Orangetown Planning Board has duly declared itself Lead Agency and rendered a "Negative Declaration: (i.e., no potential adverse environmental impacts) on April 9, 2008 (PB#08-14), the Zoning board of Appeals is bound by the Planning Board's Negative Declaration and no further environmental review is required under SEQRA, pursuant to SSEQRA Regulations 617.6 (B) (3) (iii). The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Doherty, aye. Ms. Albanese was absent.

The Planning Board declared a negative declaration in PB#08-14 dated April 9, 2008.

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

Donald Brenner, attorney, testified that the Planning Board granted a preliminary approval and declared a SEQRA negative declaration on April 9, 2008 in Planning Board decision #08-14; that this property was before the Board in 2002 and the Board granted variances for a commercial factory to be built; that the Town Board passed a statute last year permitting this use in the LIO district and that his how this application is before the Board; that this is not a rural area it is a suburban area; that it is in the Empire zone and the Empire zone attracts businesses and people; that this is not a disaster for the area; that Orangetown residents do play tennis; that the Planning Board analyzed this application and granted a preliminary approval; that recreation is a commodity for Orangetown; that the grass crete is creating a lane for fire trucks; that this is a commercial building that will have sprinklers and will not be a fire hazard; that the building is not being built on speculation; that the variances granted in 2002 were in excess of the request before the Board tonight; that the closest house is over 150 feet to the north of the site; that this is a tax ratable that is sitting dormant now; and that the hours of operation would be from 6A.M. to the evening.

Barry Poskanzer, Architect, testified that the tennis facility is proposed to be constructed on a five acre lot; that previously the building that was approved had parking on three sides of it; that they were aware of the residential area when this plan was designed; that the yard variances are from the corner of the building to the paper street and the stream easement; that the building is designed so that the lights are not toward the residential area; that the proposed height of the building is five feet higher than what is permitted; that the Tennis Association recommends the 40' height and 37' as the minimal; that the parking is designed away from the residential area; and showed the Board the comparisons of the previously approved building to the proposed building.

Michael Piatza, Real Estate Broker, testified that he has been a commercial broker since 1978; that he sold the property to the previous owner; that this is a commercial/ industrial

zone; that there have been inquiries about the property for a recycling site; that this use is favorable to the community; that this proposed use does not devalue the properties in the area; that it is an improvement when compared to the commercial industrial uses that are also permitted in the zone; and that there is a demand for space in this area.

Public Comment:

Lester Cohen, 167 Cowpens Drive, testified that he has been a resident for 37 years; that he is opposed to the variance; that the renderings don't show the true building height; that he would like the Board to look at the pictures of the Westrock facility which is open from 5 A.M. to midnight; that the height of that building is much higher than the architect's rendering show; that there should be a 200' buffer; that there should be a larger buffer between the residential and LIO zone; that the residential community does not want this; and they elected the Town Board which appoints this Board.

Noreen Hansen, 158 Cowpens, testified that 40' is too high; that the homeowners in the area are major investors in this town; that they pay more taxes combined than any one of these commercial buildings; that they shop and spend their money in the town; that they are very invested in this community; that they want the Board to remember that they elected the officials that appointed them; that they are opposed to the granting of the variance.

Patrick Weir, 159 Cowpens testified that this application does not effect only seven homes; that it effects the entire neighborhood; that there is plenty of leased space available in that area; that the other building that was approved wasn't built because it wouldn't sell or rent because there is too many vacant spaces available.

Michael Sullivan, 10 Redcoat Lane, Tappan testified that he would like to know how many houses the real estate agent has sold in the area; that he would like to know how many parking spaces are available for this use; and questioned if the 2002 approval was for a peaked or flat roof.

Bridget Sullivan, 10 Redcoat Lane, read a letter from the owners of 19 Redcoat Lane; and testified that this is an extreme inconvenience, a tremendous burden and eyesore; that there will be noise disturbance from the cars and the air conditioning; that the buffer should be larger; that all the variances should be denied; that she purchased her home 10 years ago to get away from these type of things that they bought in a rural area for that reason; that this facility will not be used by Orangetown residents; that Orangetown residents don't play tennis; that this is a blue-collar town; that Bergen and Westchester people play tennis; no one in Orangetown plays tennis and this facility should be built in Bergen County.

Ms. Sokoloff, 149 Valley Forge Lane, testified that this is a fire hazard and how many people will loose everything if this building burns; that the hours of the trains and the planes and now this is too much; and asked the Board not to allow this to be built.

Judy Clemens, 162 Cowpens, stated that the kids will be using the fire lane for their drinking parties in the fall and the winter; that they will be closer to the houses; that she questions the need for this indoor facility if Rockland State is going to have a recreation center.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, the Board found and concluded that the benefits to the applicant if the variance(s) are granted (excluding the height variance) 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 New York State Town Law 280-a exception and side yard, front yard and total side yard variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The yard variances are being granted on the side of the property that connects with a paper street and a stream easement.
2. The requested building height variance would produce an undesirable change in the character of the neighborhood and a detriment to nearby properties.
3. The requested New York State Town Law 280-a exception and side yard, front yard, and total side yard variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
4. The requested building height variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances and the exception from New York State Town Law 280-a.
6. The benefits sought by the requested height variance can be achieved by other means feasible for the applicant other than obtaining a variance. The building could be dug into the ground by five feet negating the need for the height variance.
7. The requested side yard, front yard and total side yard variances although substantial, are being granted to the side of the property that connects to and existing paper street and stream easement.
8. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily 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 side yard, front yard and total side yard variances is **APPROVED**; the requested exception from New York State Town law Section 280-a is **GRANTED**; and the requested building height variance is **DENIED**; 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 60.48' side yard, 24.9' front yard and 166.48' total side yard variances and the exception from New York State Town Law Section 280-a and to deny the requested building height variance was presented and moved by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Mr. Sullivan, aye. Ms. Albanese 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 16, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -L.P.

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

DECISION

**FRONT YARD, REAR YARD AND PARKING SPACE VARIANCES
APPROVED**

To: Donald Brenner (Fisher)

ZBA # 08- 74

4 Independence Avenue
Tappan, New York 10983

Date: 7 / 16 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-74: Application of Dr. Edward Fisher for variances from Chapter 43, CS District, Section 3.12, Group FF, Column 8 (Front Yard: 0' or 45' required, 10.6' existing, 2.2' and 5.7' proposed), 11 (Rear Yard: 50' required, 0' existing) and from Section 3.11, Column 6 # 2 (Parking Spaces: 20 spaces required, 17 spaces provided) for an office extension. Premises are located at 6 Independence Avenue, Tappan, New York and are identified on the Orangetown tax Map as Section 74.18, Block 3, Lot 35; CS zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 16, 2008 at which time the Board made the determination hereinafter set forth.

Dr. Edward Fisher and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Site plan dated 5/2/08 signed and sealed by Jay Greenwell, L.S.

On advice of Mr. Michaels, Attorney 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) Regulations 617.5 (c) (7) which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Doherty, aye. Ms. Albanese was absent.

The Planning Board declared a negative declaration in PB#

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

Donald Brenner testified that Dr. Fisher has been in business since 1975 at this location; that because of the size of the new equipment and to make the office work more efficiently it is necessary to expand; that a new handicap accessible bathroom is included in the plans.

Dr. Fisher testified that the addition to the office will allow a more efficient flow of patients; getting patients in and out faster.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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, rear yard and parking space variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The completion of the addition will also add three additional parking spaces.
2. The requested front yard, rear yard and parking space variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested variances are not substantial.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily 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, rear yard and parking space variances is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested front yard, rear yard and parking space variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Mr. Sullivan, aye. Ms. Albanese 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 16, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
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