

MINUTES
ZONING BOARD OF APPEALS
July 2, 2008

MEMBERS PRESENT: PATRICIA CASTELLI
 WILLIAM MOWERSON
 NANETTE ALBANESE

ABSENT: JOHN DOHERTY
 DANIEL SULLIVAN

ALSO PRESENT: Robert Magrino, Esq. Deputy Town Attorney
 Anne Marie Ambrose, Official Stenographer
 Deborah Arbolino, Administrative Aide

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEM:

RIVERSIDE HOMES 78.18 / 1 / 47; R-80 zone	POSTPONED	ZBA#08-52
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NEW ITEMS:

HOLLOWS AT BLUE HILL TEMPORARY SIGNS 73.05 / 1 / 53.2; PAC zone	POSTPONED	ZBA#08-61
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O'CONNELL 69.05 / 4 / 29; R-15 zone	FRONT YARD, AND REAR YARD VARIANCES APPROVED	ZBA#08-62
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TAPPAN CEMETERY 77.10 / 2 / 18; R-15 zone	SIGN VARIANCE APPROVED	ZBA#08-63
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BADALAMENTE 77.06 / 1 / 29.27; R-15 zone	FRONT YARD AND REAR YARD VARIANCES APPROVED	ZBA#08-64
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ACERBO 69.09 / 5 / 70; R-15 zone	SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#08-65
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FIELDS 77.06 / 2 / 38; R-15 zone	WITHDRAWN	ZBA#08-66
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BREVETTI 77.15 / 2 / 15; R-15 zone	FLOOR AREA RATIO VARIANCE APPROVED	ZBA#08-67
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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: Gleason Site Plan, 5 Treeline Terrace, Upper Grandview, NY 71.09/1/36; R-15 zone; Wyeth North Retention Basin, Middletown Road, Pearl River, NY 68.08/1/1; LI 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 9:15 P.M.

Dated: July 2, 2008

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

FRONT YARD AND REAR YARD VARIANCES APPROVED

To: Noel and Eileen O'Connell ZBA # 08-62

20 Robertson Drive Date: 7 / 2 / 08
Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08- 62: Application of Noel and Eileen O'Connell for variances from Chapter 43, Section 3.12, R-15 District, Group M, Columns 8 (Front Yard: 30' required, 20' existing, 16' proposed), and 11 (Rear Yard: 35' required, 21.6' proposed) for an addition to an existing single-family residence. The premises are located at 20 Robertson Drive, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.05, Block 4, Lot 29; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 2, 2008 at which time the Board made the determination hereinafter set forth.

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

Noel and Eileen O'Connell appeared and testified.

The following documents were presented:

1. Architectural plans dated 2/18/08 signed and sealed by Jorge Lopez, Architect.
2. A letter of support signed by five neighbors.
3. A tax map depicting the neighbors in support of the application.

On advice of Mr. Margino, 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 which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Sullivan and Mr. Doherty were absent.

Eileen O'Connell testified that the house is a small ranch house with two bedrooms and one bathroom; that they purchased the house before their daughter was born; that her bedroom is tiny and does not hold all of her things; that they would like to add onto the house to have three bedrooms when they are finished and two bathrooms; and to have a kitchen that is large enough to eat in and a family room; that the neighborhood is mixed with high-ranches and colonials; that the majority of the property is to the east and that the property to the back is long and wooded.

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 rear yard variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The house is the smallest house on the street and the proposed addition is in keeping with the character of the neighborhood.
2. The requested front yard and rear 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 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 rear yard variances is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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

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

DATED: July 2, 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.vW.

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

DECISION

SIGN VARIANCE APPROVED

To: Tappan Reformed Church Cemetery Sign ZBA # 08-63
32 Old Tappan Road Date: 7 / 2 / 08
Tappan, New York 10983

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-63: Application of Tappan Cemetery for a variance from Chapter 43, R-15 District, Section 3.11 refers to R-80 District Column 5 #12 (Any non-residential use: the Zoning Board of Appeals may permit one sign not over 20 sq.ft.) The cemetery is located at 32 Old Tappan Road, Tappan New York, and are identified on the Orangetown Tax Map as Section 77.10, Block 2, Lot 18; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 2, 2008 at which time the Board made the determination hereinafter set forth.

Katherine Raia and Donald Hoover appeared and testified.

The following documents were presented:

- 1. A picture of the proposed sign and its proposed location on the tax map.

On advice of Mr. Magrino, 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 which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Sullivan and Mr. Doherty were absent.

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

Katherine Raia testified that they would like to install the sign at the entrance to the cemetery; that the 3' x 5' portion of the sign would have the name of the cemetery, the date it was established and the phone number; that the 8" x 36" portion of the sign would be removable and state plots available; that they would like this portion of the sign to be removable because when the 800 available plots are sold there will be no need for it; and that they need the sign because many people think this is a historic cemetery and that there are no plots available.

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 sign variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The 18 sq. ft. sign at the entrance to the cemetery will clearly establish the entrance to the cemetery.
2. The requested sign 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 sign 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 sign 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 sign variance was presented and moved by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Ms. Albanese, aye. Mr. Mowerson, aye; and Ms. Castelli, aye. Mr. Doherty and Mr. Sullivan were absent.

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

DATED: July 2, 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, SIDE YARD AND TOTAL SIDE YARD VARIANCES
APPROVED**

To: Joe and Sue Badalamente

ZBA # 08-64

15 Lafayette Street
Tappan, New York 10983

Date: 7 / 2 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-64: Application of Joe and Sue Badalamente for variances from Chapter 43, Section 3.12, R-15 District, Group M, Columns 8 (Front Yard: 30' required, 31.2' existing and 28.2' proposed), 9 (Side Yard: 20' required, 18.6' existing and 19.5' proposed), and 10 (Total Side Yard: 50' required, 38.1 existing, 40.1' proposed) for an addition to an existing single-family residence. The premises are located at 15 Lafayette Street, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.06, Block 1, Lot 29.27; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 2, 2008 at which time the Board made the determination hereinafter set forth.

Sue Badalamente and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

2. Architectural plans dated 2/6/08 signed and sealed by Jane Slavin, Architect.
3. Plot plan dated 8/11/07 based on a survey by Robert Rahnefeld, P.L.S., dated April 15, 1997 signed and sealed by Jane Slavin, Architect.

On advice of Mr. Magrino, 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 which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Sullivan and Mr. Doherty were absent.

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

Sue Badalamente testified that the house is built on a slab and does not have a basement; that they do not have a garage or many closets; that there are four members of her family; that the house presently has three bedrooms; that they would like to add a covered entry with a closet, a family room and a loft area.

Jane Slavin, Architect, testified that the lot is undersized; that in the R-15 zone the required lot size is 15,000 sq. ft. and this lot is only 10,404 sq. ft.; that the lot is oddly shaped; that the proposed addition was stepped in two feet from each corner at the rear of the house to be more conforming than the existing non-conforming house; that the loft would be open to below; that the addition at the front of the house is only a three front covered entry; and that the addition was designed to enhance the existing house and blend in with the neighborhood.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing 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, side yard and total side yard variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
2. The requested front yard, side yard and total side yard variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested variances are not substantial considering the lot is an undersized lot which is oddly shaped.
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 sign 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 sign variance was presented and moved by Mr. Mowerson, seconded by Ms. Albanese, and carried as follows: Ms. Castelli, aye; Mr. Mowerson, aye; and Ms. Albanese, aye. Mr. Doherty and Mr. Sullivan were absent.

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

DATED: July 2, 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

SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: Christopher and Maria Acerbo
349 Blauvelt Road
Blauvelt, New York 10913

ZBA # 08-65

Date: 7 / 2 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-65: Application of Christopher and Maria Acerbo for variances from Chapter 43, R-15 District, Section 3.12, Group M, Columns 9 (Side Yard: 20' required, 15.3 proposed) and 10 (Total Side Yard: 50' required, 40.1' proposed) for an addition to an existing single-family residence. The premises are located at 349 Blauvelt Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.09, Block 5, Lot 70; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 2, 2008 at which time the Board made the determination hereinafter set forth.

Christopher and Maria Acerbo and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 4/15/08 signed and sealed by Jane Slavin, Architect.
2. Plot plan dated 5/14/08 signed and sealed by Jane Slavin, Architect, based on a survey prepared by Decker, Dillin and Sorace dated March 4, 1979.

On advice of Mr. Magrino, 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 which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Sullivan and Mr. Doherty were absent.

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

Christopher Acerbo testified that he purchased the house in 1995; that it is a three bedroom cape cod style house with 1 ½ bathrooms; that there is a detached garage; that he married Maria a year ago; that they would like to add an in-law suite for her mother, expand the kitchen, add a family room with a master bedroom suite above it; and that they are not adding a second kitchen.

Jane Slavin, Architect, testified that is only six feet from the house; that the addition was stepped back into that area so as not to leave a six foot wide alleyway between the house and existing garage; that the variances are being created because of attaching the house to the garage; that the house was built in 1949; that there will be a mud room transition between the main house and the garage; and that there will only be one 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. 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 side yard and total side yard variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The variances are being creating by attaching the addition to the existing garage.
2. The requested side yard and total side yard variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested side yard and total side yard 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 side yard and total side yard variances is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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

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

DATED: July 2, 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

FLOOR AREA RATIO VARIANCE APPROVED

To: John Brevetti

ZBA # 08-67

61 Lexington Road
Tappan, New York 10983

Date: 7 / 2 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-67: Application of John Brevetti for a variance from Chapter 43, Section 3.12, R-15 District, Group M, Column 4 (Floor Area Ratio: .20 permitted, .24 granted in ZBA#02-85, .246 proposed) for a vestibule addition to an existing single-family residence. The premises are located at 61 Lexington Road, Tappan New York, and are identified on the Orangetown Tax Map as Section 77.15, Block 2, Lot 15; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 2, 2008 at which time the Board made the determination hereinafter set forth.

John Brevetti appeared and testified.

The following documents were presented:

1. A plot plan showing the location of the basement entrance with drawings of the proposed roof structure and stairs.
2. ZBA Decision #02-85 dated September 18, 2002.

On advice of Mr. Magrino, 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 which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Sullivan and Mr. Doherty were absent.

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

John Brevetti testified that he has had a water problem since 1999; that when hurricane Floyd hit he received a FEMA Grant for damage to his basement; that he has the lowest lot of all of the surrounding properties; that he has tried to correct the problem by adding drains for the down spouts and such but he continues to get water in the basement every time there is a heavy rain; that he would like to remove the existing bilco doors and construct cement stairs going down to a real basement door and cover the area with a

gable roof that would match the three gables in the front of the house; and hopefully this will cure the water problem.

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 variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The .006 increase in the floor area ratio is minimal to correct an ongoing water problem.
2. The requested floor area ratio 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 .006 floor area ratio 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 floor area ratio variance is **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested sign variance was presented and moved by Ms. Albanese, seconded by Ms. Castelli, and carried as follows: Ms. Albanese, aye. Mr. Mowerson, aye; and Ms. Castelli, aye. Mr. Doherty and Mr. Sullivan were absent.

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

DATED: July 2, 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 -M.M.

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

