

MINUTES  
ZONING BOARD OF APPEALS  
JULY 20, 2011

MEMBERS PRESENT: WILLIAM MOWERSON  
JOAN SALOMON  
NANETTE ALBANESE  
DANIEL SULLIVAN  
THOMAS WARREN, ALTERNATE

ABSENT: PATRICIA CASTELLI

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

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEMS:

KOREAN 7 <sup>TH</sup> DAY ADVENTIST CHURCH 70.15 / 1 / 44; R-15 zone	SIGN SIZE AND LOCATION VARIANCES APPROVED AS MODIFIED	ZBA#11-29
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155 CORPORATE DRIVE 73.19 / 1 / 1; LO zone  73.15 / 1 / 18; LO zone	FRONT YARD, BUILDING HEIGHT AND LOADING BERTH VARIANCES APPROVED WITH SPECIFIC CONDITIONS	ZBA#10-92
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NEW ITEMS:

BECKERLE LUMBER 74.15 / 1 / 5; LI zone	FRONT YARD, SIDE YARD, TOTAL SIDE YARD, REAR YARD BUILDING HEIGHT & §13.10 B (2), (4) & (10) VARIANCES APPROVED	ZBA#11-59
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VAN ORDEN 78.17 / 2 / 31; R-40 zone	SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#11-60
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NISSEN 69.17 / 4 / 51; R-15 zone	FRONT YARD, SIDE YARD, AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#11-61
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DANSKER 71.09 / 1 / 34; R-22 zone	FRONT YARD VARIANCE APPROVED	ZBA#11-62
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ST. MARGARET'S CHURCH 68.19 / 2 / 14 & 27; RG zone	FLOOR AREA RATIO & FRONT YARD VARIANCES APPROVED AND EXTENSION OF TIME TO IMPLEMENT GRANTED	ZBA#11-63
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BAUER 68.16 / 4 / 25; RG zone	SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#11-64
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KENEALLY 68.12 / 5 / 2; RG zone	SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#11-65
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LEONARD 69.18 / 2 / 26; R-15 zone	SIDE AND REAR YARD VARIANCES APPROVED	ZBA#11-66
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MAHER 68.20 / 3 / 41; RG zone	FLOOR AREA RATIO, LOT AREA AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#11-67
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ADDITIONAL BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting 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 applications: O'Brien & Massetti Resubdivision Plan, 160 Franklin Avenue, Pearl River, N.Y., 68.20 / 2 / 25 & 31; RG zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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

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

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

Dated: July 20, 2011

#### DECISION

#### SIGN VARIANCES APPROVED AS MODIFIED

To: John Kim (Korean 7<sup>th</sup> Day Adventist Church)

ZBA # 11-29

38 Sunny Ridge Road  
Spring Valley, New York 10977

Date: June 1, 2011  
July 20, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-29: Application of the Korean 7<sup>th</sup> Day Adventist Church for variances from Chapter 43 (Zoning), Section 3.11, R-15 District refers to R-80 District, Column 5 #12 ( One sign permitted: two signs proposed; 20 sq. ft. permitted, 50.7 sq, ft, proposed; and sign must be set back 25' from lot line, 0.5 feet proposed) and from Section 13.10 (Route 303 Overlay Zone) B (4) Maximum distance of 10 feet of entryway permitted, 24 feet proposed) for two signs proposed at an existing church located at 573 Route 303, Blauvelt, New York and identified on the Orangetown Tax Map as Section 70.15, Block 1, Lot 44 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 1, 2011 at which time the Board made the determination hereinafter set forth.

At the June 1, 2011 hearing John Kim and Salomon Cabessa, contractor, appeared and testified.

The following documents were presented:

1. Picture of proposed sign.
2. Two sets of plans labeled "sign plan dated 4/29/10: by John E. Collazuol, P.E. not signed or sealed.

3. Planning Board Decision #06-73 dated January 24, 2007.
4. A letter dated April 6, 2011 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
5. A letter dated March 31, 2011 from the County of Rockland Department of Highways signed by Joseph Arena, Principal engineering Technician.

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

At the June 1, 2011 meeting John Kim testified that they need the sign close to the road so that people can see it; that the church is set way back from the road behind another building; and they need the sign to attract more people to the church; that they will see if it can be moved back more than three feet and would like a continuance until the July 20, 2011 meeting.

Salomon Cabessa, contractor, testified that he was the contractor for the church renovation and is representing the church for the sign; that during construction delivery people had a hard time finding the church because it is set back from the road behind another building; that the sign is necessary for people to find the church; that if they moved it further back it would not be noticed by traffic traveling at fifty miles per hour along Route 303; that there is no sign proposed for the church, that the lettering is being painted onto the church; that the sign by the road could be moved back three feet; that if they move it further in, it wouldn't help because people traveling on Route 303 would not see it; and that they would like a continuance to get clarification on the measurements.

At the July 20, 2011 hearing the following items were reviewed by the Board:

1. Clarification of measurements from John Giardiello.
2. Thirteen pictures of signs in the area with similar setbacks from Route 303.
3. Revised plans of the signs and their proposed locations.

On advice of Barbara Gionta, Deputy Town Attorney, acting counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (7); which does not require SEQRA environmental review. The motion was seconded by Mr. Warren and carried as follows: Mr. Sullivan, aye; Mr. Warren, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Ms. Castelli was absent from the July 20, 2011 hearing.

At the July 20, 2011 Hearing John M. Kim and Robyn Song appeared and testified.

Robyn Song testified that they are submitting pictures of other similar signs along Route 303; that the other signs seem to be in the same location as their proposed standing sign; that they would be willing to move the sign back 2 ½'; that there are three buildings on the lot, one is the sanctuary for Korean, another is the youth sanctuary which is English and the Church; that the sign on the church would identify it for the public; that the sign on the church could be reduced to 4' x 8'; and that would bring the total square footage to 42.5 sq. ft..

Public Comment:

No public comment.

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

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

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

#### FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested two signs within the 25' setback and from Section 13.10 Route 303 Overlay zone variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar size signs have been constructed in the area and the applicant has reduced the size of the sign on the church and moved the street sign back 2 ½ feet..
2. The requested two signs within the 25' setback and from §13.10 Route 303 Overlay zone variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar size signs have been constructed in the area and the applicant has reduced the size of the sign on the church and moved the street sign back 2 ½ feet..
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The Church is set back quite a distance from Route 303 and would not be easily found without signage.
4. The requested two signs within the 25' setback and from Section 13.10 Route 303 Overlay zone variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar size signs have been constructed in the area and the applicant has reduced the size of the sign on the church and moved the street sign back 2 ½ feet..
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested two signs within the 25' setback and from Section 13.10 Route 303 Overlay zone variances are APPROVED as MODIFIED: (1) the standing sign shall be located 3' east of the property line; (2) the sign on the Church shall be reduced from 4.5' x 9' to 4' x 8';(3) total signage 42.5 sq. ft.; 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 two signs within the 25' setback as amended ( standing sign: 3' east of property line; building sign reduced to 4' x 8') and from Section 13.10 Route 303 Overlay zone variances was presented and moved by Ms. Salomon, seconded by Mr. Sullivan and carried as follows: Mr. Sullivan, aye; Mr. Warren, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

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

DATED: April 20, 2011

#### DECISION

#### 15 OUTDOOR LOADING BERTHS, 50' FRONT YARD AND 38.5' BUILDING HEIGHT VARIANCES APPROVED WITH SPECIFIC CONDITIONS

To: Douglas Bartels, P.E. (155 Corporate Drive)

ZBA # 10-92

570 Commerce Blvd.  
Carlstadt, New Jersey 07072

Date: December 1, 2010

January 5, 2011

April 6, 2011

May 18, 2011

July 20, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-92: Application of 155 Corporate Drive for variances from Chapter 43, Section 3.12, LIO District, CC Group, Columns 8 (Front Yard: 100' required, 50' proposed), 12 (Building Height: 12.5' permitted, 44' proposed) and LIO District refers to LO District Column 7 #2 (Loading Berths shall be within completely enclosed buildings) for the construction of a new building. Premises are located at 155 Corporate Drive, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 73.15, Block 1, Lot 18; & Section 73.19, Block 1, Lot 1; LO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, December 1, 2010, January 5, 2011, April 6, 2011, May 18, 2011 and July 20, 2011 at which time the Board made the determination hereinafter set forth.

At the December 1, 2010 meeting Edward Russo, owner, Douglas Bartels, Project Engineer, Richard Price, P.E., and Antonio Del Vecchio, Attorney, appeared and testified.

The following documents were presented:

1. Drawings signed and sealed by Douglas Bartels, P.E., 5/21/10 and Jack Shoemaker, L.S., 5/26/10 labeled as follows:
  - C1 Title Sheet
  - C2 Existing Conditions Plan
  - C3 Site Plan
  - C4 Overall Grading Plan
    - C4.1 Grading and Drainage Plan
    - C4.2 Stormwater Management Plan and Details
    - C4.3 Stormwater Management Plan and Details
  - C5 Utility Plan
  - C6 Profiles
  - C7 Profiles
  - C8, C9, C10 Construction Details
  - C11 Landscape Plan
  - C12 Lighting Plan
  - C13 Landscape and Lighting Details
  - C14 Soil Erosion & Sediment Control Plan
  - C15 Soil Erosion & Sediment Control Plan
2. First Floor Plan, Building Elevations signed and sealed by Frank Jakus Architect.
3. A letter dated November 15, 2010 from the County of Rockland Department signed by Salvatore Corallo, Commissioner of Planning.
4. A letter dated October 25, 2010 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
5. A letter dated November 22, 2010 from the County of Rockland Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
6. A letter dated November 29, 2010 from the County of Rockland Department of Highways signed by Sonny Lin, P.E.
7. A letter dated May 12, 2010 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning administration and Enforcement, Town of 155 Corporate Drive  
ZBA#10-92  
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Orangetown.

8. Planning Board decision #10-05 dated June 9, 2010.
9. A cover letter dated November 22, 2010 from Herten Burstein, Attorney representing Jason and Julie Park Chon, 30 Corrigan Way, Old Tappan, New Jersey.
10. Planning and Zoning Report in opposition to proposed variances for the 155 Corporate Drive Development. Prepared by Herten Burstein Sheridan Cevasco Bottinelli Litt & Hartz LLC. And Bonnie Francon, AICP, Tim Miller Associates submitted November 22, 2010.
11. Response to Planning and Zoning Report (named above) dated December 1, 2010 from Beattie Padovano, LLC representing Russo Developers (155 Corporate Drive).

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

Douglas Bartels testified they have no objection to continuing the hearing until January 5, 2010, however he would like to clarify that the applicant does not need any parking variances; that the parking calculations were alternately calculated using the formula of one space per 200 sq. ft. of office space and one space per two employees and based on

these calculations there is no variance necessary for parking; that he will ask John Giardiello for a letter regarding the parking calculations; and that they will change the date on the posters.

Public Comment:

Tom Herten, Attorney for the opposition testified that he would like copies of the plans and that he would ask that the application be sent back to the Planning Board because the SEQRA review was improperly done.

At the January 5, 2011 meeting the applicant stated that the dates of the postings were not changed and requested a continuance.

April 6, 2011

At the April 6, 2011 meeting Edward Russo, owner, Douglas Bartels, Project Engineer, Richard Price, P.E., and Antonio Del Vecchio, Attorney, appeared and testified.

The following documents were presented:

1. Schematic Drawings prepared by Russo Development:
  - A1.1 Aerial Map Corporate & Olympic Drives, 4/6/11
  - A1.2 Aerial Map Ramland & Blaisdell Roads, 4/6/11
  - A1.3 Aerial Map Bradley Corporate Park, 12/01/10
  - A2 Zoning Overlay Map, 4/6/11
  - A3.1 Original Site Plan, 12/01/10
  - A3.2 Approved Site Plan, 4/6/11
  - A3.3 Site Overlay Plan, 12/01/10
  - A4 Approved Site Plan Setback, 12/01/10
  - A5 View from Corporate Drive Looking N.W., 12/01/10
  - A6 Sight Section Key Map, 12/01/10
  - A7.1 Sight Section 34 Corrigan Way, 12/01/10
  - A7.2 Sight Section 30 Corrigan Way, 12/01/10
  - A7.3 Sight Section 26 Corrigan Way, 12/01/10
  - A7.4 Sight Section 22 Corrigan Way, 12/01/10
  - A7.5 Sight Section 18 Corrigan Way, 12/01/10
  - A8 First Floor Plan, 12/01/10
  - A9 Building Elevations, 12/01/10
  - A10 Photos of Example Russo Projects, 12/01/10
  - A11 Photos of Example Russo Projects, 12/01/10
  - A12 Photos of Example Russo Projects, 12/01/10
  - A13 Photos of Example Russo Projects, 12/01/10
2. Chart of Orangetown Property Study – Comparable Projects to 155 Corporate Drive - Properties in LIO or LO, dated December 1, 2010, prepared by Russo Development.
3. Traffic Impact Analysis for 155 Corporate Drive, prepared by Joseph Staigar Engineering, LLC, dated February 13, 2010, revised May 26, 2010.

Mr. Del Vecchio, Attorney for the applicant, discussed the need for the variances, in particular the rear variance. The building was moved forward at the request of the New Jersey residents and the Planning Board, thereby requiring the need for frontage and height variances. The applicant is requesting interior loading berths, similar to other buildings in the area with loading berths. Mr. Del Vecchio presented a chart of Orangetown properties having similar loading berths.

Edward Russo, owner of the site, noted that the property was purchased in 2008 and an application was submitted to the Planning Board in the Fall of 2009. The original proposal had a larger building, however, the building plan before the Zoning Board is 20,000 square feet smaller and four feet lower in height. The building is comparable to other modern buildings in the LIO zone and other buildings in the Corporate Parking office/warehouse area. The project is appropriate and similar to the surrounding uses. It is a modern building, similar to the Clarins addition and Crestron.

Mr. Russo presented photos of the building in relation to the neighboring residential houses on Corrigan way, noting the height of the vegetative buffer and “Line of Sight”.

Board Member Castelli questioned the applicant about the source used in collecting data to compare its project with other warehouse/office space in Orangetown. Mr. Russo stated that they used “Co-Star Data Base” and existing site plans information from the Town Building Department and he believed the information was accurate.

Mr. Russo discussed the need for the height variance, front yard set back and exterior loading bays, and went over a handout entitled “Chart of Orangetown Property Study – Comparable Projects to 155 Corporate Drive - Properties in LIO or LO, dated December 1, 2010”.

Joseph Straiger, Transportation Consultant for the applicant, reviewed the traffic impact study with the Board. The results of the study noted that traffic would increase, but less than 1%.

Richard Price, Planner for the applicant, evaluated the requested variances. He reiterated the need for the variances in order to construct a modern development with flexible needs.

Public Comment:

Tom Herten, attorney for the New Jersey residents, held that the Town of Orangetown Planning Board misinterpreted the development plan. The rear of the site needs a 200 foot rear setback and that the screening is not sufficient.

Bonnie Francon, Planner for the New Jersey residents, held that Warehouse Use is not a permitted use in the LIO zone. She stated that the proposed number of loading berths is indicative that the building would be used as a warehouse and not office. In her review of the Planning Board, she found that the Planning Board did not consider warehouse use in its Environmental Impact Statement. Ms Francon noted a need for a noise study of the project and a photo simulation of the building height. She held that the applicant should be applying for a Use Variance, rather than multiple variances.

Jay Jacobs, a representative of the Borough of Old Tappan, held that the applicant is applying for a use that is not allowed in the zone. He requested that the Town of Orangetown Zoning Board of Appeals consider the opinions of the residents of New Jersey.

Tom Scrable, Borough of Old Tappan, Town Engineer, discussed the drainage impact of the development to the residents of New Jersey.

Michael Kigowski, a real estate broker in New Jersey, discussed the resale devalue of the houses in the “Waters Edge Subdivision” the residential housing development abutting the project.

Kathy Fable, 14 Stewart Court, Old Tappan, New Jersey, held that the proposed development does not belong behind her house.

Phyllis Lieberman, 26 Corrigan Lane, Old Tappan, New Jersey, believed that the proposed building does not meet code, was disturbed about the truck noise and exhaust.

Leslie Whately, 6 Buckingham Place, Old Tappan, New Jersey, believes that the applicant is marketing the site as a data center; however, they are saying it will be used as an office.

Rosemary Delbaggio, 2 Corrigan Way, Old Tappan, New Jersey, held that the loading bays will make a lot of noise and that the requested variances are substantial.

Joe Albano, 10 Buckingham Place, discussed the buffer and held that the project was too big.

Alfonso Ferrara, 18 Corrigan Way, agreed with everyone else about the project being too



big.

Marie Kenvecas, 22 Stewart Court, believed that the development will substantially change the neighborhood.

The applicant requested a continuance to the May 18, 2011 meeting.

May 18, 2011

Douglas Bartells, P.E., Antimo Del Vecchio, Attorney, and Ed Russo appeared and testified,

Additional items submitted for review:

1. Schematic Drawings prepared by Russo Development:
  - A1.1 Aerial Map Corporate & Olympic Drives, 4/6/11
  - A1.2 Aerial Map Ramland & Blaisdell Roads, 4/6/11
  - A1.3 Aerial Map Bradley Corporate Park, 12/01/10
  - A2 Zoning Overlay Map, 4/6/11
  - A3.1 Original Site Plan, 12/01/10
  - A3.2 Approved Site Plan, 5/18/11
  - A3.3 Site Overlay Plan, 12/01/10
  - A4 Approved Site Plan Setback, 12/01/10
  - A5 View from Corporate Drive Looking N.W., 12/01/10
  - A6 Sight Section Key Map, 12/01/10
  - A7.1 Sight Section 34 Corrigan Way, 12/01/10
  - A7.2 Sight Section 30 Corrigan Way, 12/01/10
  - A7.3 Sight Section 26 Corrigan Way, 12/01/10
  - A7.4 Sight Section 22 Corrigan Way, 12/01/10
  - A7.5 Sight Section 18 Corrigan Way, 12/01/10
  - A8 First Floor Plan, 12/01/10
  - A9 Building Elevations, 12/01/10
  - A10 Photos of Example Russo Projects, 12/01/10
  - A11 Photos of Example Russo Projects, 12/01/10
  - A12 Photos of Example Russo Projects, 12/01/10
  - A13 Photos of Example Russo Projects, 12/01/10
  - A14 Photo Location Map 5/18/11
  - A 15.1 Existing Conditions Photo #1 5/18/11
  - A 15.2 Photo Simulation #1 5/18/11
  - A 16.1 Existing Conditions Photo #2 5/18/11
  - A 16.2 Existing Conditions Photo #2 with Field Markers 5/18/11
  - A 16.3 Photo Simulation #2 5/18/11
  - A 17.1 Existing Conditions Photo #3 5/18/11
  - A 17.2 Existing Conditions Photo #3 with Field Markers 5/18/11
  - A 17.3 Photo Simulation #3 5/18/11
  - A 18.1 Existing Conditions Photo #4 5/18/11
  - A 18.2 Photo Simulation #4 5/18/11
  - A 19 Photo Simulation #2 with Conforming Building
  - A 20 Photo Simulation #3 with Conforming Building
2. A letter dated May 18, 2011 from Edward Russo, President and Chief Operating Officer, Russo Development.(2 pages)
3. Two computer generated pictures from Michael Lieberman, 26 Corrigan Way.

Antimo Del Vecchio testified that the applicant heard the New Jersey neighbors and as a result a new updated booklet of the plans with the latest revision date of May 18, 2011 has been submitted to the Board and distributed to the neighbors; that the loading docks have been reduced by one-third to 15 loading docks; that the neighbors expressed concern about the building blending into the landscape and a brownish color has been proposed for the rear of the building; that A-14 to the end of the booklet show pictures of existing and photo simulation of the building at the proposed height and the permitted height; that the pictures were in real time before the leaves were blooming on the trees; that they do not have customers for the building yet; that it takes too long to get approval for a potential customer to wait; that once they have an approval they can market the

building for a user; that in this market it would be impossible to guarantee a finish date for a perspective tenant; that the Zoning Officer for the Town had already determined that a use variance is not required for this property and the Jersey neighbors keep insisting that a use variance is needed; and that they would like a continuance until the July 20, 2011 meeting to see if they can come to an agreement with the abutting Jersey neighbors.

Ed Russo testified that the packet handed out today shows 15 instead of 22 loading docks; that they have gone to the expense of hiring a company that does the photo simulation shots for the neighbors; that they are listening to the neighbors concerns; that they have picked Pantone #417 to paint the rear of the building to blend into the buffer area; that they are proposing 60 Pine trees at the height of 10 to 12 feet and a fence as extra screening by the loading docks; that pictures 1-14 to the end show the photos of existing conditions and photo simulation with the building; that he does not think it is fair of the residents to hold this project to a higher standard than other projects have been held; that Clarins has 14 loading docks, Crestron has 18 loading docks and Dealer Tire has 17; that Clarins got a height variance in 2001 for a 45' building; and that he cannot get a tenant for the building until he has approval to build.

Douglas Bartels, P.E. tried to answer drainage and wetland concerns brought up by Donna Weissman, 34 Corrigan way.

#### Public Comment:

Michael Lieberman, 26 Corrigan Way, Old Tappan, New Jersey, testified that no pictures were submitted from his backyard and submitted two of his own. He further testified that pictures were taken by the applicant from every adjoining property and from their second story windows but he didn't see any of those photos; and that he would like to see all of the pictures that were taken.

Donna Weissman, 34 Corrigan Way, Old Tappan, New Jersey, testified that there are wetlands are this property and she gets a wet area in her backyard after heavy rains; and wanted to know if there are restrictions on building in the wetlands.

Rosemary Delvaggio, 2 Corrigan Way, Old Tappan, New Jersey, testified that she is opposed to the project; that she has concerns regarding even 15 loading docks; that Keebler has eight loading docks and it is very noisy; that this proposal will increase traffic and should be denied.

Phyllis Lieberman, 26 Corrigan Way, Old Tappan, New Jersey, testified that the loading docks should be pushed to the front of the building; that the lighting should be looked at and that the business could be open 24 hours and seven days a week.

Kathy Fable, 14 Stewart Court, stated that she has lived in her house for fifteen years; that the project will alienate the neighborhood; that the Board should make the applicant follow the letter of the law.

Bonnie Franson, Tim Miller Associates, testified that she is representing the neighbors; that she appreciates the photo's but they appear to represent the best case scenario; that she has concerns regarding to height of the building and it not being set back 200'; that the loading docks should be re-orientated; that the hours of operation and truck activity should be looked at; that noise is a concern and a use variance is required.

Mark Fable, 14 Stewart Court, testified that the ZBA should protect everything that they are asking for that is the law; that it is there to protect.

At the meeting of July 20, 2011 the following items were presented for review:

1. Revised site plan labeled A3.4 dated July 2011 revised to show Sound Wall & Additional Evergreen Trees.
2. Fourteen pictures of office/warehouse buildings.
3. Six page settlement agreement signed by Antimo Del Vecchio, Esq. and Thomas

Herten, Esq. with exhibit A naming 13 Old Tappan residents; exhibit B Preliminary & Final Site Plan labeled : C1, C3,C11, C12, C13, A3.4, A9, Exhibit C (14) fourteen pictures of office/warehouse buildings.

Antimo Del Vecchio, Esq., and Edward Russo appeared and testified.

Antimo Del Vecchio testified that since the last meeting, they have been meeting with the New Jersey neighbors and they have reached an agreement; that they have made the appropriate amendments to the plans; that the building will have a total floor area of 143,331 sq. ft. of which 131,239 sq. ft. is proposed as warehouse and/or industrial in nature and 12,092 sq. ft. is proposed to be second floor office space; that the proposed building height along the southerly elevation will be reduced to 37.5 feet; that the southerly building wall will be set back no less than 150 feet from the rear property line; that the building will have no more than 15 loading spaces; that a 14 foot sound attenuation wall with roll up door for emergency access will be provided as wing walls form the south easterly corner of the proposed building running in an easterly direction and parallel to the proposed edge of pavement for the loading area to a point where the curb line makes a 90 degree turn in a northerly direction and a similar wall extending from the south west corner of the building in a westerly direction running parallel to the curb line extending to a point where the curb line makes a 90 degree turn in a northerly direction; that the Old Tappan neighbors will be consulted with and will approve the color of the southerly elevation of the sound attenuation wall if and to the extent the wall can be painted or tinted, or to the extent that the materials selected is manufactured in various earth tone colors; that the developer has agreed to install an additional forty evergreen trees of 10 to 12 feet in a double staggered row fashion along the remaining edge of pavement and the 20 foot wide fire access lane running along the rear of the building; that the developer will install 10 additional evergreen trees of 10 to 12 feet in height in a double staggered row fashion along a portion of the easterly curb line of the loading area; that they will also install 10 additional evergreen trees of 10 to 12 feet in height in a double staggered row fashion along a portion of the westerly curb line of the loading area; that in addition to the plantings, the developer has agreed to provide no more than forty additional evergreen trees of 10 to 12 feet in height to be utilized over the course of no more than three years from the date the trees were planted to replace any of the initial 114 trees planted should one of those trees not survive during that three year period; that the developer has agreed to allow the Old Tappan neighbors to choose the color that the rear (southerly elevation) wall of the building will be painted; that the rear lighting and the lighting proposed to the loading area shall not cause light to spill over the rear property line in excess of what is permitted by ordinance; that the air conditioning units shall use "whisper quiet" fans for all such units placed upon the roof; that the applicant has agreed to comply with the Town of Orangetown's existing noise ordinance and has agreed to conduct and pay for a post construction noise study by Lewis S. Goodfriend & Associates; that if the applicant's plans for the property change to seek an approval for a data center on the property, the applicant agrees that all outside equipment would be constructed at ground level and enclosed by sound attenuating enclosure (without roof), that any transformers on site would be screened, and that no additional substations would be constructed or installed to support data center use; and that they would like to clarify the height of the building, that at the westerly side of the building the height would be 38.5'.

Public Comment:

Ton Herten, Attorney for the Old Tappan, New Jersey, neighbors testified that the agreement entered into the record this evening titled "Settlement Agreement dated July 20, 2011" is satisfactory and that the neighbors withdraw their objections with the agreement made as part of the conditions of an approval.

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

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

Mr. Mowerson made a motion to close the Public Hearing which motion was seconded

by Ms. Albanese and carried unanimously.

#### FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested 50' front yard, building height (38.5') and loading berth (15) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to make the "Settlement Agreement" dated July 20, 2011, signed by Antimo Del Vecchio, Esq. and Thomas Herten, Esq. a specific condition of approval; which document is attached to this decision.
2. The requested 50' front yard, building height (38.5') and loading berth (15) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . The applicant has agreed to make the "Settlement Agreement" dated July 20, 2011, signed by Antimo Del Vecchio, Esq. and Thomas Herten, Esq. a specific condition of approval; which document is attached to this decision.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested 50' front yard, building height (38.5') and loading berth (15) variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The applicant has agreed to make the "Settlement Agreement" dated July 20, 2011, signed by Antimo Del Vecchio, Esq. and Thomas Herten, Esq. a specific condition of approval; which document is attached to this decision.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested 50' front yard, building height (amended to 38.5') and (15) loading berth variances are **APPROVED WITH THE SPECIFIC CONDITIONS SET FORTH IN THE "SETTLEMENT AGREEMENT" DATED JULY 20, 2011 ATTACHED** ; 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 50' front yard, 38.5' building height, and 15 loading berths variances with specific conditions was presented and moved by Mr. Mowerson, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Warren, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

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

DATED: July 20, 2011

#### DECISION

FRONT YARD, SIDE YARD, TOTAL SIDE YARD, REAR YARD, BUILDING HEIGHT, AND SECTION 13.10B (2),(4) & (10) VARIANCES APPROVED

To: Beckerle Lumber

ZBA # 11-59

219 Route 303

Date: July 20, 2011

Orangeburg, New York 10962

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-59 Application of Beckerle Lumber for variances from Chapter 43 (Zoning), Section 3.12, LI District, Group QQ, Columns 8 (Front Yard: 50' required, 45.04' existing, 33.9' proposed), 9 (Side Yard: 50' required, 5.99' existing, no change), 10 (Total Side Yard: 100' required, 47.29' existing, 37.3' proposed), 11 (Rear Yard: 50' required, 30.98' existing, 27.1' proposed) and 12 (Building Height: 5.4' permitted for Building B: 25' proposed; 13.5' permitted for building C: 25.7' proposed) and from Section 13.10: "Non-residential Areas" B (2) ("A twenty-five foot wide vegetative buffer shall be located adjacent to Route 303 right-of-way" and none exists); the existing

site and conditions make it impossible to comply with this Route 303 Overlay requirement; § 13.10 B (4): (“Signage shall not be permitted on the right-of-way line except that on-site signage shall be permitted within 10 feet of any entryway for ingress or egress; the relocated sign is proposed at 2 feet from the Route 303 right-of-way line); §13.10 B (10): (Not more than 35% of all parking shall be located within the front yard of any lot or parcel: 21 of the 31 parking spaces are existing within the front yard; therefore 68% exist in the front yard: no change); for proposed additions and relocations at an existing business. The business is located at 219 Route 303, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 73.15, Block 1, Lot 5 in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 20, 2011 at which time the Board made the determination hereinafter set forth.

Pete, Steve and Larry Beckerle and Steve Collazuol, Land Surveyor appeared and testified.

The following documents were presented:

1. Site plan dated 09/13/2010 with the latest revision date of 12/14/2010 signed and sealed by Steven J. Collazuol, P.E. & PLS. (3 pages)
2. Architectural plans dated 01/31/2011 with the latest revision date of 05/04/2011 signed and sealed by Adam Mark McLaughlin, P.E..
3. A letter dated July 20, 2011 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
4. A letter dated July 19, 2011 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
5. A letter dated July 12, 2011 from the State of New York Department of Transportation signed by Mary Jo Russo, P.E., Rockland County Permit Engineer.

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

On advice of Barbara Gionta, Deputy Town Attorney, acting counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency, pursuant to coordinated review under the State Environmental Quality Review Act Regulations §617.6 (b) (3) ; and since the Planning Board conducted SEQRA review on December 8, 2010, rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use action (i.e., a ‘Negative Declaration’ or ‘Neg Dec’), the ZBA is bound by the Planning Board’s Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations 617.6 (b)(3); which motion was seconded by Mr. Sullivan and carried as follows: Mr. Warren, aye; Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

Steve Collazuol, P.E., testified that the site is located abutting the old Erie Railroad bed; that the park and trail runs along side the site; that when the pedestrian bridge was installed over Route 303, it blocked the existing sign from anyone traveling south along Route 303; that cars traveling south do not see the sign until they have passed the business; that the size of the sign complies with the zoning code; that they would like to re-locate the existing sign, so that it can be seen from the north and the south; that there is no other sign on the lot; that the sign shown on the plan does not exist; that the new proposed location of the sign requires a variance; that the proposed sign is not in the designated street line; that it is 12.5’ from the right-of-way; that they agree with the letter from the DOT, regarding the height of the existing bushes and would like to comply with their request, when they are before the Architecture Review Board; that they are planning on restoring spaces 1-3 that are shown on the plan; that if they get the area variances requested to enlarge some of the buildings, they will be able to store more items inside those spaces; and that the existing outdoor

storage can be removed.

Pete Beckerle testified that there is no sign in the location that shows a sign on the site plan; that they are not proposing a new sign, only to re-locate the existing sign; and that he agrees with the letter from the DOT regarding sight distances being blocked by the existing bushes; that they will remove the walls in front of the main building as requested; that they were planted in accordance with ACABOR; and they will be going back to ACABOR and doing new plantings.

Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested front yard, side yard, total side yard, rear yard, building height and Section 13.10 B (2), (4), & (10) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Some of the requested variances are for existing conditions and the other variances are for minor changes to a pre-existing commercial business that has been in its present location for many years.
2. The requested front yard, side yard, total side yard, rear yard, building height and Section 13.10 B (2), (4), & (10) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Some of the requested variances are for existing conditions and the other variances are for minor changes to a pre-existing commercial business that has been in its present location for many years.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The construction of the pedestrian bridge over Route 303 blocks the sign from ongoing southbound traffic in its present location and the applicant's request to move it 12.5' away from the right-of-way requires a variance.
4. The requested front yard, side yard, total side yard, rear yard, building height and Section 13.10 B (2), (4), & (10) variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Some of the requested variances are for existing conditions and the other variances are for minor changes to a pre-existing commercial business that has been in its present location for many years.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested front yard, side yard, total side yard, rear yard, building height and Section 13.10B (2), (4), & (10) variances are APPROVED with the following SPECIFIC CONDITIONS: (1) All plantings in the NYS right of way must not have a mature height greater than 2 feet. There are presently plantings that do block sight distances and must be removed from the right of way; (2) the block wall located within the State road right-of-way must be removed; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested front yard, side yard, total side yard, rear yard, building height and Section 13.10B (2), (4), & (10) variances was presented and moved by Mr. Sullivan, seconded by Ms. Albanese and carried as follows: Mr. Sullivan, aye; Mr. Warren, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

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

DATED: July 20, 2011

DECISION

SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED



To: Jonathan Van Orden

ZBA # 11-60

1 West Mears Avenue  
Beach Haven, New Jersey, 08008

Date: July 20, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 11-60: Application of Jonathon Van Orden for variance from Chapter 43 (Zoning) Section 3.12, R-40 District, Group E, Columns 9 (Side Yard: 30' required, 14.6' proposed) , and 10 (Total Side yard: 80' required, 43.31' proposed) for an addition to an existing single-family residence.. The premises are located at 667 Oak Tree Road, Palisades, New York an identified on the Orangetown tax Map as Section 78.17, Block 2, Lot 31; R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 20, 2011 at which time the Board made the determination hereinafter set forth.

Jonathan and Marissa Van Orden and Thomas Cusanelli, Architect, and Jesse DeRosa, appeared and testified.

The following documents were presented:

1. Architectural plans dated 04/18/2011 with the latest revision date of 05/24/2011 signed and sealed by Thomas F. Cusanelli, Architect. (13 pages)
2. A site plan not dated or signed submitted at ZBA Hearing.
3. A letter dated July 8, 2011 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
4. A letter dated June 1, 2011 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.

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

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

Thomas Cusanelli, Architect, testified that the existing dwelling maintains 14.6' side yard; that the westerly side of the drawing that is hatched is the proposed addition;; that the proposed addition is in conformance for the most part; that one section of it intrudes into the side yard enough to cause the need for a total side yard variance; that the lot narrows along Oak Tree and widens at Fern Road; that there are designated wetlands in the rear by Fern Road; that the minimum total side yard is sixty feet and the application is providing 43.31 feet' and that the Palisades Community Center is approximately 20 to 25 feet away from the proposal.

Marissa Van Orden testified that they closed on the house in March and have been working on the plans to fix the house; that they are adding onto the kitchen and adding a mudroom family room and the finished house will have four bedrooms and two baths.

Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested side yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The addition was designed to complement the existing historic structure and the existing house has an existing side yard of 14.6 feet and a small portion of the proposed addition causes the total side yard variance.
2. The requested side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The addition was designed to complement the existing historic structure and the existing house has an existing side yard of 14.6 feet and a small portion of the proposed addition causes the total side yard variance.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The existing side yard requires a variance.
4. The requested side yard and total side yard variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The addition was designed to complement the existing historic structure and the existing house has an existing side yard of 14.6 feet and a small portion of the proposed addition causes the total side yard variance.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested side yard and total side yard variances are **APPROVED** as modified; 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. Albanese, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Warren, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

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

DATED: July 20, 2011

#### DECISION

#### FRONT YARD, SIDE YARD AND REAR YARD VARIANCES APPROVED

To: Robert and Bernice Nissen

ZBA # 11-61

98 South Mountainview Avenue  
Pearl River, New York 10965

Date: July 20, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-61: Application of Robert and Bernice Nissen for variances from Chapter 43 (Zoning), Section 3.12, Group M, R-15 District, Columns 8 ( Front Yard: 30' required, 23.7' existing, 16.7' proposed), 9 (Side Yard: 15' required, 10' existing and proposed), 10 (Total Side Yard: 30' required, 20' existing, 20' proposed) for a proposed addition to an existing single-family residence. Premises are located at 98 South Mountainview Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.17, Block 4, Lot 51; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 20, 2011 at which time the Board made the determination hereinafter set forth.

Robert and Bernice Nissen and Michael O'Connor, contractor, appeared and testified.

The following documents were presented:

1. Site plan based on survey dated 03/07/1957 by Robert Jost, PLS with addition drawn on it.
2. Architectural plans dated 04/25/2011 signed and sealed by Paul Gdanski, P.E..
3. Four photographs of the houses sitting next to Nissen and two of the Nissen house.

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

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

Michael O'Connor, contractor, testified that the existing house has a tiny kitchen with about three feet of counter space; that the proposal is to bump out about 7' in the rear, add a coat closet move the door and expand the rear of the house; that Mr. Nissen has Hutchinson's disease and they need to keep the handicapped ramp; that the kitchen will be ten feet wide and much more accessible; and that the lot is narrow.

Bernice Nissen testified that she spoke with the neighbors about the addition and that they have no objections to it.

Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested front yard, side yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is only 50.38' wide and the existing house does not meet the requirements for front yard or total side yard; and the proposed addition is for an addition to the existing kitchen at the front of the house.
2. The requested front yard, side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the

neighborhood or district. The lot is only 50.38' wide and the existing house does not meet the requirements for front yard or total side yard; and the proposed addition is for an addition to the existing kitchen at the front of the house.

3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. Any addition to the house would cause the need for a variance.
4. The requested front yard, side yard and total side yard variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The lot is only 50.38' wide and the existing house does not meet the requirements for front yard or total side yard; and the proposed addition is for an addition to the existing kitchen at the front of the house.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such

project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute “substantial implementation” for the purposes hereof.

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

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

DATED: July 20, 2011

## DECISION

### FRONT YARD VARIANCE APPROVED

To: Donald Brenner (Dansker)

ZBA # 11-62

4 Independence Avenue  
Tappan, New York 10983

Date: July 20, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 11-62: Application of Brad Dansker for a variance from Chapter 43 (Zoning), R-22 District, refers to Section 3.12, R-15 District (Subdivision approved as average density) Group M, Columns 8 (Front Yard: 30’ required, 0.1’ existing) for an existing storage/changing room at an existing single-family residence. The premises are located at 7 Treeline Terrace, Grandview, New York an identified on the Orangetown tax Map as Section 71.09, Block 1, Lot 34; R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 20, 2011 at which time the Board made the determination hereinafter set forth.

Brad Dansker and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Site plan dated 11/11/2010 signed and sealed by William Youngblood, PLS.
2. A memorandum dated February 23, 2011 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
3. Planning Board Decision #11-11 dated May 11, 2011.
4. A letter dated July 20, 2011 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
5. A letter dated June 1, 2011 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.

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

On advice of Barbara Gionta, Deputy Town Attorney, acting counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency, pursuant to coordinated review under the State Environmental Quality Review Act Regulations §617.6 (b) (3) ; and since the

Planning Board conducted SEQRA review on May 11, 2011, rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use action (i.e., a ‘Negative Declaration’ or “Neg Dec”), the ZBA is bound by the Planning Board’s Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations 617.6 (b)(3); which motion was seconded by Mr. Sullivan and carried as follows: Mr. Warren, aye; Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

Donald Brenner, Attorney, testified that the applicant constructed a changing room below ground level approximately nine years ago without a permit; that he recently was transferred to Connecticut and needs to legalize the property; that this structure has not caused any problems for the past nine or ten years; that they received a preliminary approval from the Planning Board in May and that they have no problem addressing the concerns of the New York State Department of Transportation letter dated February 18, 2011.

Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The existing changing room is below grade level and not visible from the street and has existed without incident for approximately nine years.
2. The requested front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The existing changing room is below grade level and not visible from the street and has existed without incident for approximately nine years.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The applicant has two front yards and did not realize that his rear yard is considered a front yard because it has street frontage.
4. The requested front yard variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The existing changing room is below grade level and not visible from the street and has existed without incident for approximately nine years.
5. The applicant purchased the property subject to Orangetown’s Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

General Conditions:

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

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

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

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

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

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

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

DATED: July 20, 2011

DECISION

FLOOR AREA RATIO AND FRONT YARD VARIANCES APPROVED



To: Brian Quinn (St. Margaret's Church)

ZBA # 11-63

Montalbano, Condon & Frank  
67 North Main Street  
New City, New York 10956

Date: July 20, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-63: Application of St. Margaret's Church for variances from Chapter 43 (Zoning), Section 3.12, Group T, RG District, Columns 4 ( Floor Area Ratio: .30 permitted, .61 proposed), 8 (Front Yard: 75' required, 31.9' existing non-conforming, 32.7' proposed) for an addition to the existing church and the existing school. The premises are located at 115 West Central Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.19, Block 2, Lots 14 & 27 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 20, 2011 at which time the Board made the determination hereinafter set forth.

Brian Quinn, Attorney Jay Greenwell, Land Surveyor, and Tom Bertussi appeared and testified.

The following documents were presented:

1. Site development plan dated 03/12/2010 with the latest revision date of 06/01/2011 signed and sealed by Jay Greenwell, PLS. (2 pages)
2. A Narrative (2 pages).
3. Planning Board Decision dated May 25, 2011 PB#11-21.
4. A letter dated July 19 2011 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
5. A letter dated July 20, 2011 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
6. A letter dated June 15, 2011 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.

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

On advice of Barbara Gionta, Deputy Town Attorney, acting counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency, pursuant to coordinated review under the State Environmental Quality Review Act Regulations §617.6 (b) (3) ; and since the Planning Board conducted SEQRA review on May 25, 2011, rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use action (i.e., a 'Negative Declaration' or "Neg Dec"), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations 617.6 (b)(3); which motion was seconded by Mr. Sullivan and carried as follows: Mr. Warren, aye; Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

Brian Quinn, Attorney, testified that the application has received preliminary approval from the Planning Board; that they are proposing to make additions to the existing church and school; that they would like to proposed that he project be completed in two phases; that the first phase would involve an addition to the church approximately 1,200 sq. ft.; that it would connect the church to the rectory, providing an enclosed entrance at grade level; that the church has lost parishioners because there is no easy access for elderly and handicapped parishioners; that the new entrance and enclosed elevator will provide access; that the second phase of the project is an addition to the school of 7,150 sq. ft. that ill connect the school to the new church addition and provide additional space for the

school; that this portion of the application is not yet funded; that the applicant is requesting that the statutory approval period be extended to a five year time frame, in order to permit the church flexibility in commencing construction; and that if there are any changes to fire or building codes during that time the applicant would agree to meet all of those requirements.

Jay Greenwell testified that the church and school together have four front yards; that there was a house on the lot that has been moved and is privately owned; that there is a gazebo and yard in that area presently; that the intensification is less; that the existing elevator will be removed and a new brick and paver entry joining the church and rectory and opening on three levels will be added; that the entrance will be on Central Avenue and access will be easier.

#### Public Comment:

No public comment.

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

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

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

#### FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio and front yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property has four front yards and presently there is no easily accessible handicap entrance into the Church. The pre-existing non-conforming floor area ratio is .53 and will be increased to .61 and will accomplish the needed space for the school and provide a handicapped connection to the church and rectory.
2. The statutory approval period may be extended to a five (5) year time frame in order to permit the Church flexibility in commencing the construction.
3. The requested floor area ratio and front yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The addition of an entrance to the church that enables older and handicapped parishioner's easier access does not adversely affect the conditions of the neighborhood.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The property has four front yards and presently there is no easily accessible handicap entrance into the Church. The pre-existing non-conforming floor area ratio is .53 and will be increased to .61 and will accomplish the needed space for the school and provide a handicapped connection to the church and rectory.
5. The requested floor area ratio and front yard variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.

6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio and front yard variances are APPROVED with the FOLLOWING SPECIFIC EXCEPTION: (1) the applicant's statutory approval period shall be extended to a five (5) year time frame (from Date of Stamped filed decision), in order to permit the Church the flexibility in commencing construction, however if there are new fire & safety code requirements the applicant shall meet those requirements; 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 front yard variances with a five year time frame to implement such variances (specific condition that all safety and fire codes be implemented) was presented and moved by Mr. Mowerson, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr.

Warren, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

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

DATED: July 20, 2011

## DECISION

### SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Anne Marie Bauer

ZBA # 11-64

50 North William Street

Date: July 20, 2011

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-64: Application of Anne Marie Bauer for variances from Chapter 43 (Zoning), Section 3.12, RG District, Group Q, Columns 9 ( Side Yard: 10' required, 5.5' proposed), 10 (Total Side Yard: 30' required, 10.5' proposed) and 12 ( Building Height: 8.5' permitted, 9.5' proposed) for an addition to an existing single-family residence. The premises are located at 50 North William Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.16, Block 4, Lot 25 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 20, 2011 at which time the Board made the determination hereinafter set forth.

Anne Marie Bauer and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans and site plan dated 05/20/2011 signed and sealed by Jane Slavin, Architect.

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

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

Jane Slavin, Architect, testified that the existing house is very small and built on a slab; that they are proposing to add to the rear of the house and to connect to the existing garage; that they are also proposing to add a deck with a ramp, re-locating it to the side of the house; that the existing house had two bedrooms, a very small kitchen and a living room; that they are proposing to expand the kitchen, add a family room, master bedroom and bathroom that will be handicap accessible; that the lot is only 60' wide and the addition is minor in nature; that the proposed addition is following the lines of the house but the property line is curved; that the 6.8' corner

setback is what is causing the need for the height variance; and the nearest house is an additional 10 or 15 feet away.

Ann Marie Bauer testified that she has owned the house since 2001; that there are three members of the family; that the smallest bedroom will be used as an office and that the house will have three bedrooms when the project is complete.

Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested side yard, total side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested side yard, total side yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The house was constructed at an angle to the property line which is causing the need for the variances.
4. The requested side yard, total side yard and building height variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar additions have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

**General Conditions:**

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

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

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

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

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

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

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

DATED: July 20, 2011

#### DECISION

#### SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Jeremiah and Rosaleen Keneally  
40 Forest Avenue  
Pearl River, New York 10965

ZBA # 11-65

Date: July 20, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-65: Application of Jeremiah and Rosaleen Keneally for variances from Chapter 43 (Zoning), Section 3.12, RG District, Group Q, Columns 9 (Side Yard: 10' required,

8.25' proposed), 10 (Total Side Yard: 30' required, 17.89' proposed) and 12 (Building Height: 10.31' permitted, 12.5' proposed) for an addition to an existing single-family residence. Premises are located at 40 Forest Avenue, Pearl River,, New York and identified on the Orangetown Tax Map as Section 68.12, Block 5, Lot 2; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 20, 2011 at which time the Board made the determination hereinafter set forth.

Jeremiah and Rosaleen Keneally and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Site plan dated 02/15/2010 signed and sealed by Jane Slavin, Architect.
2. Architectural plans dated 05/20/2011 signed and sealed by Jane Slavin, Architect.
3. Six computer generated pictures of the house and surrounding houses.
4. Two letters in support of the application.

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

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

Jane Slavin, Architect, testified that the existing family room addition was built in the mid 70's but was inadequately built and is in desperate need of a rebuild; that they are proposing to do that and add an additional eight feet to the rear; and that the letters of support are from the neighbors on either side of the house.

Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested side yard, total side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is only 60' wide and the existing conditions are being extended to accommodate the proposed addition.

2. The requested side yard, total side yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot is only 60' wide and the existing conditions are being extended to accommodate the proposed addition.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The existing non-conforming conditions are being extended.
4. The requested side yard, total side yard and building height variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The lot is only 60' wide and the existing conditions are being extended to accommodate the proposed addition.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

#### General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the



purposes hereof.

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

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

DATED: July 20, 2011

## DECISION

### SIDE YARD AND REAR YARD VARIANCES APPROVED

To: Stephen and Carolyn Leonard

ZBA # 11-66

50 Noyes Street

Date: July 20, 2011

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-66: Application of Stephen and Carolyn Leonard for variances from Chapter 43 (Zoning), Section 3.12, R-15 District, Group M, Column 9 (Side Yard: 20' required, 10' proposed), and from Section 5.227 (Rear Yard for Swimming Pool: 20' required, 5' proposed) for the installation of a semi-in-ground pool an existing single-family residence. Premises are located at 50 Noyes Street, Pearl River,, New York and identified on the Orangetown Tax Map as Section 69.18, Block 2, Lot 26; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 20, 2011 at which time the Board made the determination hereinafter set forth.

Stephen and Carolyn Leonard appeared and testified.

The following documents were presented:

1. Site plan with pool hand drawn on it.
2. One letter in support of the application.

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

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

Stephen Leonard testified that they would like to install a semi-inground pool in the left side of their rear yard; that they have a large property but the majority of it is front yard and very steep; that they also have a sewer easement on the right rear yard that runs up to Maple Shade; that they have 13year old twins and a twelve year old; that both he and his wife grew up in Orangetown; that they have lived in Pearl River for ten years and that they purchased the pool from West rock Pools and were told they would not need a variance.

Carolyn Leonard testified that they purchased the pool from West rock at their Memorial Day sales event and that it not returnable.

Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested side yard and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Because of the topography and shape of the lot and the existing sewer easement, this is the best location for the pool.
2. The requested side yard and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Because of the topography and shape of the lot and the existing sewer easement, this is the best location for the pool.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The topography of the lot dictates the location of the pool.
4. The requested side yard and rear yard variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Because of the topography and shape of the lot and the existing sewer easement, this is the best location for the pool.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

**General Conditions:**

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

variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

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

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

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

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

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

DATED: July 20, 2011

## DECISION

### FLOOR AREA RATIO, LOT AREA, AND BUILDING HEIGHT VARIANCES APPROVED

To: James and Eileen Maher

ZBA # 11-67

14 Spreen Drive  
Pearl River, New York 10965

Date: July 20, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-67: Application of James and Eileen Maher for variances from Chapter 43 (Zoning), Section 3.12, RG District, Group Q Columns 4 (Floor Area Ratio: 30% permitted, 33% proposed), 5 ( Lot Area: 10,000 sq. ft. required, 8,135 sq. ft. existing) and 12 (Building Height: 14.23' permitted, 18' existing and proposed) for an addition to an existing single-family residence. Premises are located at 14 Spreen Drive, Pearl River,, New York and identified on the Orangetown Tax Map as Section 68.20, Block 3, Lot 41; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 20, 2011 at which time the Board made the determination hereinafter set forth.

James Maher appeared and testified.

The following documents were presented:

1. Site plan dated 06/14/2011 signed and sealed by Robert Rahnefeld, PLS.

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

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

James Maher testified that they are proposing an addition to the rear of the house to add to the kitchen, dining area, storage and a bathroom; that they are planning to replace the deck; that there are five people in the family and that they need the 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. Albanese and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested floor area ratio, lot area and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is undersized and the proposed addition is only one story 8' by 35' and will provide the extra needed living space.
2. The requested floor area ratio, lot area and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot is undersized and the proposed addition is only one story 8' by 35' and will provide the extra needed living space.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. Because the lot is undersized, any addition would require variances.

4. The requested floor area ratio, lot area and building height variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The lot is undersized and the proposed addition is only one story 8' by 35' and will provide the extra needed living space.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

The foregoing resolution to approve the application for the requested floor area ratio, lot area and building height variances was presented and moved by Mr. Sullivan, seconded

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

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

DATED: July 20, 2011

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By \_\_\_\_\_  
Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR

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























































