

MINUTES
ZONING BOARD OF APPEALS
JULY 25, 2012

MEMBERS PRESENT: WILLIAM MOWERSON
 JOAN SALOMON
 NANETTE ALBANESE
 DANIEL SULLIVAN
 MICHAEL BOSCO, 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 ITEM:

MC CORMACK 69.07 / 1 23; R-40 zone	SIDE YARD VARIANCE APPROVED AS MODIFIED	ZBA#12-40
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POSTPONED ITEM:

MIELE-TEPLITZ 74.18 / 3 / 32; LI zone	DEFERRED DECISION	ZBA#12-48
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NEW ITEMS:

INFINITY EQUINE THERAPY 69.19 / 1 / 6; R-40 zone	SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#12-49
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GRANELLI 72.07 / 1 / 1; R-15 zone	LOT AREA, FRONT YARD AND REAR YARD VARIANCES APPROVED	ZBA#12-50
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ARGENZIO 74.05 / 1 / 5; RG zone	§11.2 VARIANCES APPROVED WITH HOURS OF OPERATION	ZBA#12-51
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LUCAS 70.17 / 3 / 45; R-15 zone	REAR YARD VARIANCE APPROVED AS MODIFIED	ZBA#12-52
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HENRY 74.13 / 4 / 8; RG zone	REAR YARD VARIANCE APPROVED	ZBA#12-53
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DI PIETRANTONIO 69.14 / 2 / 5; R-15 zone	REAFFIRMATION OF VARIANCES GRANTED IN ZBA #06-97	ZBA#12-54
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FLYNN 69.13 / 3 / 10; R-15	FRONT YARD VARIANCE APPROVED	ZBA#12-55
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CAMPBELL
69.13 / 2 / 59; R-15 zone

FLOOR AREA RATIO, FRONT YARD ZBA#12-56
AND SIDE YARD VARIANCES APPROVED

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.

DECISION

SIDE YARD VARIANCE APPROVED AS MODIFIED TO 25'

To: Aidan and Michele McCormack

ZBA # 12-40

11 Marycrest Road

Date: June 20, 2012

West Nyack, New York 10994

July 25, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-40: Application of Aidan and Michele McCormack for a variance from Chapter 43 (Zoning), Section 3.12, R-40 District, Group A, Column 9 (Side Yard: 30' required, 23' proposed) for a proposed pool house at an existing single-family residence. Premises are located at 11 Marycrest Road, West Nyack, New York and are identified on the Orangetown Tax Map as Section 69.07, Block 1, Lot 23 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, June 20, 2012 and July 25, 2012 at which time the Board made the determination hereinafter set forth.

At the June 20, 2012 meeting Aidan McCormack and Teodoro Siguenza, Architect, appeared and testified.

The following documents were presented:

1. Site plan dated 1/21/2011 with a revision date of 5/21/2011 signed and sealed by Teodoro Siguenza, Architect.
2. Architectural plans dated 5/21/2012 signed and sealed by Teodoro Siguenza, Architect.
3. Zoning Board of Appeals Decisions #09-01 dated January 7, 2001 and #12-07 dated January 18, 2012.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not

require SEQRA environmental review. The motion was seconded by Ms. Albanese and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

Teodoro Siguenza, Architect, testified that the required side yard is 30' and they are requesting a 20' side yard; that they have laid the pool house every way and there is not enough room to meet the 30' requirement for the side yard; that the pool is already installed; that the pool house is the same size as the last time they were before the Board in January; that if they moved the cabana over there would only be seven feet between the cabana and the pool; that the bump-out in the cabana permits the large service window; and that they would like a continuance to either modify the size of the building by eliminating the "L" or moving the cabana.

Aidan McCormack testified that the wall is a storm wall and is not part of the pool house; that he doesn't think seven feet between the cabana and pool is enough space for a patio; that the structure needs to be a certain distance from the house so that it does not block the view of the pool from the house and that his neighbors have no problem with the cabana; and that he would agree to a continuance to work out the requests of the Board.

At the July 25, 2012 meeting the following items were handed in by Mr. McCormack:

1. A revised site plan dated July 24, 2012.
2. Five letters from abutting property owners in support of the application.

Michael Specht, Attorney and Aidan McCormack appeared and testified.

Michael Specht, Attorney, testified that they just received a revised site plan for the proposed pool house; that the new proposed side is 25' instead of the originally proposed 23'; that the size of the cabana cannot be changed because the roof was custom ordered from a company in Vermont and Mr. McCormack already paid for half of it.

Mr. McCormack testified that after the first hearing when he was granted the rear yard variance he ordered the roof; that when he built his house six years ago, he did not plan on installing a pool; that as the kids got older he was worn down and installed the pool; that if he had realized the problems that were being caused by the pool cabana he would have designed it for the other side of the yard, but it was designed to sit in such a way that they would be able to view the pool from the kitchen windows.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing 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 variance as modified to a 25' setback (5' variance) will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The requested side yard variance is along side a driveway that is used to enter the property to the rear of the applicants' house.
2. The requested side yard variance as modified to a 25' setback (5' variance) will not

have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . The requested side yard variance is along side a driveway that is used to enter the property to the rear of the applicants' 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.
4. The requested side yard variance, although somewhat substantial, affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The applicant submitted five letters of support from abutting property owners.
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 variance as modified to a 25' setback (5' variance) is APPROVED with the following SPECIFIC CONDITION: the proposed site plan, dated 07/24/2012, submitted by the applicant at the Public Hearing, shall be signed and sealed by a NYS licensed Land Surveyor, professional Engineer or Registered Architect, and submitted in triplicate to the Office of Building, Zoning and Planning Administration and Enforcement; 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 variance as modified to a 25’ setback (5’ variance) was presented and moved by Ms. Salomon, seconded by Mr. Sullivan and carried as follows: Mr. Sullivan, aye; Mr. Bosco, aye; Ms. Albanese, nay; 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 25, 2012

DECISION

SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Jay Greenwell (Infinity Equine Therapy)

ZBA # 12-49

85 Lafayette Avenue
Suffern, New York 10901

Date: July 25, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-49: Application of Infinity Equine Therapy for variances from Chapter 43 (Zoning), Section 3.12, R-40 District, Group H, Columns (Side Yard: 100’ required, 15’ proposed) and 12 (Building Height: 3’ 9” permitted, 26’ 8 ½” proposed) for a canvas covered riding ring. The site is located at 551 Blauvelt Road, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 69.16, Block 1, Lot 6 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 25, 2012 at which time the Board made the determination hereinafter set forth.

Jay Greenwell, Leslie Weatherly, Instructor and owner, Infinity Equine Therapy, and Bruce Mason, Treasurer, Infinity Equine Therapy, appeared and testified.

The following documents were presented:

1. Site Plan for proposed covered riding ring dated 03/01/ 2012 signed and sealed by Jay Greenwell, Land Surveyor.
2. A letter of support from Gerard Goggin, 66 Sickletown Road.
3. A picture of the proposed canopy.

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

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

Jay Greenwell, Land Surveyor, testified that a portion of the property owned by

VanHouton Farms is used by Infinity Equine Therapy; that the program was developed for autistic, down syndrome and handi-cap people; that the participants take care of the horses, grooming them and riding them; that the existing ring is not covered, which means that the program does not have the consistency that it needs; that in inclement weather and on very hot, sunny days, the riding portion of the routine is impossible; that the covered riding ring would provide continuance of the therapeutic routine; that the structure is called a high crown arena; that the arena posts are constructed from 8 gauge 4" square allied gator shield tubing and the rafters are constructed from 14 gauge, 3.50" round pipe; that the unit is 26' 8 1/2" to center peak; that it has 8' high sidewalls; that the current ring is 80' in diameter and the new ring would be 60' diameter; that the applicant did not think they would need a variance because the proposal is smaller than the existing ring; that this is not a permanent structure; that it would make a significant benefit for the kids and not be detrimental to the environment or have adverse effect of the neighborhood; that the placement on the lot was chosen because this is the portion of the lot that Infinity is permitted to use; that John Giardiello looked at the application and concluded that it is not an increase in non-conforming use.

Bruce Mason testified that Infinity does not own horses; that they use some of the horses on site; that there are approximately 40 horses on the site presently but that number changes with the seasons; and that the ring will permit the program to be more consistent.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested 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 addition of the canopy is consistent with the long standing use of the property, and the benefit to the program for a continuance in the therapeutic routine will not be detrimental to the neighborhood or harmful to the environment.
2. The requested 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 addition of the canopy is consistent with the long standing use of the property, and the benefit to the program for a continuance in the therapeutic routine will not be detrimental to the neighborhood or harmful to the environment.
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 side yard and building height variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. . The addition of the canopy is consistent with the long standing use of the property, and the benefit to the program for a

continuance in the therapeutic routine will not be detrimental to the neighborhood or harmful to the environment.

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 10' 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 10' 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. Bosco, 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 25, 2012

DECISION

LOT AREA, FRONT YARD AND REAR YARD VARIANCES APPROVED

To: Elizabeth and Christopher Granelli

ZBA # 12-50

145 Grand Avenue

Date: July 25, 2012

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 12-50: Application of Christopher and Elizabeth Granelli for variances from Chapter 43 (Zoning), Section 3.12, Columns 5 (Lot Area: 15,000 sq. ft. required, 13,500 sq. ft. existing), 8 (Front Yard: 30 required, 26.4' existing no change), and 11 (Rear Yard: 35' required, 33.1' proposed) for an addition to an existing single-family residence. The premises are located at 145 Grand Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 72.07, Block 1, Lot 1; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 25, 2012 at which time the Board made the determination hereinafter set forth.

Elizabeth and Christopher Granelli appeared and testified.

The following documents were presented:

1. Survey dated 6/3/2011 signed and sealed by Edward T. Gannon, P.L.S.
2. Architectural plans dated March 29, 2012 by Harry J. Goldstein, Architect.

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

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

Elizabeth Granelli testified that the house presently has two bedrooms; that they are proposing to add a master bedroom and bath and an office; that they have two boys and would like them to have their own rooms; that her husband works from home sometimes and the office would be helpful; that they bumped out further in the back of the house because they will not be able to get brick that matches the existing house because it was built in 1953 and they thought they would distinguish the old from new by the bump out.

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 lot area, front yard and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot area and front yard conditions are not changing and the rear yard variance is minimal. The existing house is small and the proposed addition is just less than 1,000 sq. ft.
2. The requested lot area, front yard and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot area and front yard conditions are not changing and the rear yard variance is minimal. . The existing house is small and the proposed addition is just less than 1,000 sq. ft.
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 lot area, front yard and rear yard variances are not substantial.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested lot area, front 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 lot area, front yard and rear yard variances was presented and moved by Mr. Bosco, seconded by Mr. Sullivan and carried as follows: Ms. Albanese, aye; Mr. Sullivan, aye; Mr. Bosco, 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 25, 2012

DECISION

ZONING CODE § 11.2 HOME OCCUPATION VARIANCE APPROVED WITH SPECIFIC CONDITIONS

To: Angela Argenzio

ZBA # 12-51

2 Chestnut Oval

Date: July 25, 2012

Orangeburg, New York 10962

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-51: Application of Angela Argenzio for variances from Chapter 43 (Zoning), RG District, Group M, Section 11.2 (Home Occupation: Musical instruction limited to a single pupil at a time: 6 pupils are proposed) for music instruction/therapy at an existing single-family residence. The premises are located at 2 Chestnut Oval, Orangeburg, New York and identified on the Orangetown Tax Map as Section 74.05, Block 1, Lot 5, in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 25, 2012 at which time the Board made the determination hereinafter set forth.

Angela Argenzio appeared and testified.

The following documents were presented:

1. Hand drawing of the proposed space in the home to be used for music instruction.
2. Copy of survey of the property.
3. A cover letter explaining the need for the variance.

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

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

Angela Argenzio testified that she has a split level house and would like to use two rooms on the first level of the house to have music therapy sessions for up to six students at a time; that she is a music therapist that works with small groups of autistic children; that working with more than one child at a time helps to develop socialization, interaction. Creative play and movement; that she will be teaching children from early childhood to approximately nine years old; that she would like to have Saturday classes and three early evenings a week.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested § 11.2 home occupation variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicants' proposal to offer music therapy and enrichment to no more than six autistic children at a time, in a portion of her house that is under 500 square feet and with hours limited to three evenings each week (between the hours of 4:00 P.M. and 8:00 P.M, and on Saturdays between the hours of 9:00 A.M. and 1:00 P.M.), would not have a negative impact on the neighborhood.
2. The requested § 11.2 home occupation variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicants' proposal to offer music therapy and enrichment to no more than six autistic children at a time, in a portion of her house that is under 500 square feet and with hours limited to three evenings each week (between the hours of 4:00 P.M. and 8:00 P.M, and on Saturdays between the hours of 9:00 A.M. and 1:00 P.M.), would not have a negative impact on the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance. The music therapy

program would not be as beneficial if limited to one child at a time; social interaction is a major part of the therapy.

4. The requested § 11.2 home occupation variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The applicants' proposal to offer music therapy and enrichment to no more than six autistic children at a time, in a portion of her house that is under 500 square feet and with hours limited to three evenings each week (between the hours of 4:00 P.M. and 8:00 P.M., and on Saturdays between the hours of 9:00 A.M. and 1:00 P.M.), would not have a negative impact on the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested Zoning Code § 11.2 home occupation variance is APPROVED with the SPECIFIC CONDITIONS that (1) classes are limited to no more than six children at a time with parental involvement; (2) Classes shall be held no more than three evenings a week between the hours of 4:00 P.M. and 8:00 P.M., and on Saturdays between the hours of 9:00 A.M. and 1:00 P.M.; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

The foregoing resolution to approve the application for the requested Zoning Code § 11.2 home occupation variance with the SPECIFIC CONDITIONS that (1) classes are limited to no more than six children at a time with parental involvement; (2) Classes shall be held no more than three evenings a week between the hours of 4:00 P.M. and 8:00 P.M., and on Saturdays between the hours of 9:00 A.M. and 1:00 P.M.; was presented and moved by Mr. Mowerson, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Bosco, 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 25, 2012

DECISION

REAR YARD VARIANCE APPROVED AS MODIFIED

To: Richard and Stacey Lucas

ZBA # 12-52

47 Hoffman Lane
Blauvelt, New York 10913

Date: July 25, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-52: Application of Richard and Stacey Lucas for variances from Chapter 43 (Zoning), R-15 District, Group M, Column 11 (Rear Yard: 35’ required, 7.4’ proposed) to replace and expand an existing deck at an existing single-family residence. The premises are located at 47 Hoffman Lane, Blauvelt, New York and identified on the Orangetown Tax Map as Section 70.17, Block 3, Lot 45, 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 25, 2012 at which time the Board made the determination hereinafter set forth.

Richard and Stacey Lucas appeared and testified.

The following documents were presented:

1. Survey dated February 11, 1992 by Robert Sorace, PLS.
2. Deck plans labeled “Replacement of wood deck at 47 Hoffman Lane, Blauvelt, N.Y.” signed and sealed by Mansukhbhai R. Patel, P.E. dated 05/19/2012.

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

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

Richard Lucas testified that they would like to replace and expand the existing deck; that

the deck was there when they purchased the house twenty years ago; that they found out that there was not a certificate of occupancy for the house when they applied for this building permit; that there are four members of the family; that they are proposing a larger deck to accommodate the extended family and their outdoor furniture; and that they can reduce the deck to 22' by 28' and allow for an 11' 4" rear yard.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested rear yard variance as modified to an 11' 4" setback (23'8" variance), will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property to the rear of the house is an Orange & Rockland Utilities easement, and the less than required rear yard setback will not affect any other residence.
2. The requested rear yard variance as modified to an 11' 4" setback (23'8" variance), will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property to the rear of the house is an Orange & Rockland Utilities easement, and the less than required rear yard setback will not affect any other residence.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested rear yard variance, although substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The property adjacent to the rear lot line is occupied by an Orange & Rockland Utilities easement.
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 rear yard variance as modified to an 11' 4" setback (23'8" 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 rear yard variance as modified to an 11' 4" setback (23'8" variance), was presented and moved by Ms. Salomon, seconded by Mr. Mowerson and carried as follows: Mr. Sullivan, aye; Mr. Bosco, 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 25, 2012

DECISION

REAR YARD VARIANCE APPROVED

To: Thomas Henry

ZBA # 12-53

16 Fairview Lane
Orangeburg, New York 10962

Date: July 25, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-53: Application of Thomas Henry for a variance from Chapter 43 (Zoning), Section 3.12, RG District, Group Q, Column 11 (Rear Yard: 25' required, 10' proposed) for a deck around an above-ground pool at an existing single-family residence. Premises are located at 16 Fairview Lane, Orangeburg., New York and are identified on the Orangetown Tax Map as Section 74.13, Block 4, Lot 8 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 25, 2012 at which time the Board made the determination hereinafter set forth.

Thomas Henry appeared and testified.

The following documents were presented:

1. Copy of site plan with proposed deck drawn on it.
2. Six letters in support of the application.

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

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

Tom Henry testified that he and his wife have owned the house for fifteen years; that they have boys in 8th, 6th, and 4th grades; that they would like to add onto their existing deck and attach it to the existing above ground pool; that presently they are using a plastic pool ladder to access the pool; that it is not safe to have two kids on the ladder, especially when it is wet and slippery; that they would like to step down two feet from the existing deck and build a deck to attach to the pool with a staircase down; that there would be enough room for two adults to watch the kids in the pool and the deck would not be any closer to the rear yard than the existing pool.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicants'

lot is zoned RG and the rear yard set back for a pool in the RG zone is 10'. The proposed deck will be attached to the existing pool and not extend further than the existing 10' set back of the existing pool.

2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicants' lot is zoned RG and the rear yard set back for a pool in the RG zone is 10'. The proposed deck will be attached to the existing pool and not extend further than the existing 10' set back of the existing pool.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested rear yard variance is not substantial.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested rear 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 rear yard variance was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Bosco, 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 25, 2012

DECISION

VARIANCES GRANTED IN ZBA #06-97 RE-AFFIRMED

To: Donald Brenner (Di Pietrantonio)

ZBA # 12-54

4 Independence Avenue
Tappan, New York 10983

Date: July 25, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-54: Application of Di Pietrantonio Subdivision for renewal of variances granted in ZBA #06-97: Chapter 43(Zoning), R-15 District, Section 3.12, Group M, Column 7 (Street Frontage: 100’ required, 62’ provided for lot #2, 0’ provided for lot #1 and # 3) and for an exception pursuant to New York State Town Law, Section 280-a (Relation of structure to streets or highways for lots #1 and #3) for a proposed three lot subdivision. The site is located on the south side of Blauvelt Road, 700 feet east of the intersection of McKinley Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.14, Block 2, Lot 5 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 25, 2012 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Zoning Board of Appeals Decision #06-95 dated September 20 2006.
2. Planning board Decision #12-31 dated June 27, 2012.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that 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 for this application, pursuant to coordinated

review under the State Environmental Quality Review Act Regulations §617.6 (b) (3); and since the Planning Board conducted a SEQRA environmental review for the application, and on June 27, 2012, rendered an environmental determination of **no** significant adverse environmental impacts to result from the proposed land use action, 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). The motion was seconded by Ms. Albanese and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Bosco, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

Donald Brenner testified that the Planning granted a final re-approval of the subdivision on June 27, 2012 with the condition that the applicant get a re-affirmation of the variances granted in 2006; the application for the subdivision was made by three relatives that went through the process for subdivision and ran into economic hardship and were unable to meet the requirements that were requested before filing the final subdivision map; that they are ready to proceed with the filing of the map and are requesting that the previously granted variances be re-instated.

Public Comment:

Jordan Monahan, 632 Blauvelt Road, Pearl River, an abutting property owner, wanted to know what is going to happen with the agreement regarding the check valve.

Donald Brenner, Attorney for the applicant, stated that the applicant would install the check valve, but the Town does not want responsibility for it, and since it would be on Ms. Monahan's property she would be responsible for the valve.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the extension of time to implement the prior approval of the variances is 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. No significant change in circumstances has occurred since the prior approved variances were granted that would warrant Board reconsideration of its approval.
2. Applicants stated that they expect to file the subdivision map in the near future.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested extension of time to implement the variances granted in ZBA #06-97 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 extension of time to implement the variances granted in ZBA #06-97 was presented and moved by Mr. Mowerson, seconded by Mr. Sullivan and carried as follows: Ms. Albanese, aye; Mr. Sullivan, aye; Mr. Bosco, 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 25, 2012

DECISION

FRONT YARD VARIANCE APPROVED

To: Stephen and Mary Flynn

ZBA # 12-55

304 East Central Avenue

Date: July 25, 2012

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-55: Application of Stephen and Mary Flynn for a variance from Chapter 43 (Zoning), Section 3.12, R-15 District, Group M, Column 8 (Front Yard: 30' required, 27.72' proposed) for a front porch addition to an existing single-family residence. Premises are located at 304 East Central Avenue, Pearl River, New York and are

identified on the Orangetown Tax Map as Section 69.13, Block 3, Lot 10 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 25, 2012 at which time the Board made the determination hereinafter set forth.

Stephen and Mary Flynn appeared and testified.

The following documents were presented:

1. Plot plan with proposed porch signed and sealed by Jane Slavin, Architect.
2. Architectural plan (2 pages) dated 05/24/2012 signed and sealed by Jane Slavin, Architect.

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

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

Mary Flynn testified that they would like to add a front porch to the existing house; that the porch would be five foot wide and not extend any further than the existing stairs; that they have a corner lot; that this porch would be their retirement porch.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar porches exist in the neighborhood on Sparrow Lane.
2. The requested front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar porches exist in the neighborhood on Sparrow Lane.
3. The benefits sought by the applicant cannot be achieved by other means feasible

for the applicant to pursue other than by obtaining a variance.

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

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested 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. Albanese, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Bosco, 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 25, 2012

DECISION

FLOOR AREA RATIO, FRONT YARD, AND SIDE YARD VARIANCES APPROVED : SECTION 5.21 UNDERSIZED LOT APPLIES

To: Brian and Christine Campbell ZBA # 12-56
271 Holt Drive Date: July 25, 2012
Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-56: Application of Brian and Christine Campbell for variances from Chapter 43 (Zoning), Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .21 proposed), 8 (Front Yard: 30' required, 23' proposed), 9 (Side Yard: 15' required, 11' proposed) Section 5.21 (Undersized lot applies) for an addition to an existing single-family residence. Premises are located at 271 Holt Drive, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.13, Block 2, Lot 59 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 25, 2012 at which time the Board made the determination hereinafter set forth.

Brian Campbell and Andy McKeon, contractor, appeared and testified.

The following documents were presented:

1. Site plan dated June 22, 2012 signed and sealed by Clifford A. Herbst, P.E..
2. Architectural plans (3 pages) dated 06/25/2012 signed and sealed by Clifford A. Herbst, P.E..

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

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

Brian Campbell testified that they would like to add a front porch and a two car garage with a family room behind it and a deck; that there is an exiting one car garage that has the chimney inside it and cannot be used for a car; that they purchased the house in June of 2008 and there are three in family.

Public Comment:

No public comment.

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

meeting and found them to be properly posted and as generally described on the application.

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio, front yard and side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties (§ 5.21 undersized lot applies). The applicants' lot is undersized and the existing garage is not large enough to hold a car. The applicant is expanding the existing garage to accommodate two cars and extending that line to the rear to add a family room and deck.
2. The requested floor area ratio, front yard and side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicants' lot is undersized and the existing garage is not large enough to hold a car. The applicant is expanding the existing garage to accommodate two cars and extending that line to the rear to add a family room and deck.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio, front yard and side yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested floor area ratio, front yard and 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 floor area ratio, front yard and side yard variances were presented and moved by Mr. Mowerson, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Bosco, 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 25, 2012

