

MINUTES  
ZONING BOARD OF APPEALS  
JULY 6, 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

POSTPONED ITEM:

HERAGHTY 68.15 / 2 / 60; R-15 zone	LOCAL LAW #7 2 <sup>ND</sup> DWELLING UNIT SIZE VARIANCE APPROVED	ZBA#11-47
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NEW ITEMS:

PEARL RIVER ANIMAL HOSPITAL 68.19 / 4 / 9; CO zone	SIGN SIZE VARIANCE APPROVED	ZBA#11-51
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NOONAN 74.06 / 1 / 31; RG zone	BUILDING HEIGHT, §4.54 (TWO FRONT DOORS) VARIANCES APPROVED WITH CONDITIONS	ZBA#11-52
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TERSIGNI 78.18 / 2 / 7.1; R-40 zone	ACCESSORY STRUCTURE DISTANCE VARIANCE APPROVED	ZBA#11-53
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CALTAGIRONE 77.08 / 2 / 21; R-15 zone	FLOOR AREA RATIO VARIANCE APPROVED AS MODIFIED FRONT YARD, SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#11-54
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ALICEA 74.13 / 4 / 48; RG zone	FRONT YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#11-55
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GAURRACINO 70.15 / 1 / 36; R-15 zone	FRONT YARD VARIANCE APPROVED	ZBA#11-56
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SCHLAG 77.10 / 3 / 17; CS zone	FLOOR AREA RATIO VARIANCE APPROVED AS MODIFIED FRONT YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#11-57
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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 6, 2011

DECISION

LOCAL LAW #7: SECOND DWELLING UNIT SIZE VARIANCE APPROVED

To: Patrick and Mary Heraghty  
10 Sandhage Drive  
Pearl River, New York 10965

ZBA # 11-47  
Date: July 6, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-47: Application of Patrick and Mary Heraghty for a variance from Chapter 43 (Zoning), Section 3.11, R-15 District, Column 2 # 7 refers to R-80 District, Column 2 #7 ( Conversion of a detached, owner occupied, single-family dwelling to add an additional dwelling unit: 600 sq. ft. permitted, 654 sq. ft. exist). Premises are located at 10 Sandhage Drive, Pearl River, New York and identified on the Orangetown Tax Map as Section 68.15, Block 2, Lot 60 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 6, 2011 at which time the Board made the determination hereinafter set forth.

Patrick Heraghty appeared and testified.

The following documents were presented:

1. Survey of property by Jack Boswell dated May 19, 1970.
2. Hand drawing of the existing apartment.
3. Certificate of Occupancy dated 7/29/93 to Richard & Eileen Murphy fro "owner occupied Local Law #7".
4. A letter of explanation from Patrick Heraghty.

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

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

Patrick Heraghty testified that he purchased his house 16 years ago with owner –

occupied (2) family status; that in the process of selling the house he found out that he did not have an “owner occupied” status; that he is applying for the status now; that the inspector came out to measure the apartment and found that it measures 53.6’ more than the permitted 600 sq. ft.; that he already filed the covenant as directed by the building department; that he is seeking the variance for the extra space to keep the owner occupied status with the understanding that when the house is sold the new owners would have to apply for the status in their names.

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 Column 2 #7 ( Conversion of a detached, owner occupied, single-family dwelling to add an additional dwelling unit: 600 sq. ft. permitted, 654 sq. ft. exists)variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The 2<sup>nd</sup> dwelling unit existed since July 29, 1993 without any changes.
2. The requested Column 2 #7 ( Conversion of a detached, owner occupied, single-family dwelling to add an additional dwelling unit: 600 sq. ft. permitted, 654 sq. ft. exists) variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has already executed a covenant, dated 02/03/ 2009 as contemplated by Zoning Code § 4.51, acceptable in form and substance to the Town Attorney, and recorded in the County Clerk’s office.
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 Column 2 #7 (Conversion of a detached, owner occupied, single-family dwelling to add an additional dwelling unit: 600 sq. ft. permitted, 654 sq. ft. exists)variance is not substantial and will not have an adverse effect or impact on the physical or environmental conditions of the area. The applicant has already executed a covenant, dated 02/03/ 2009 as contemplated by Zoning Code § 4.51, acceptable in form and substance to the Town Attorney, and recorded in the County Clerk’s office. The 2<sup>nd</sup> dwelling unit existed since July 29, 1993, without any changes.
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 Column 2 #7 (Conversions of a detached, owner occupied, single-family dwelling to add an additional dwelling unit: 600 sq. ft. permitted, 654 sq. ft. exists) variance is APPROVED with the SPECIFIC CONDITION; that the applicant abide by the executed covenant, dated 02/03/2009, recorded in the County Clerk's office; 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 Column 2 #7 (Conversion of a detached, owner occupied, single-family dwelling to add an additional dwelling unit: 600 sq. ft. permitted, 654 sq. ft. exists) variance 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 6, 2011

DECISION

COLUMN 5 #6 SIGN SIZE VARIANCE APPROVED

To: Pearl River Animal Hospital

ZBA # 11-51

19 South Pearl Street  
Pearl River, New York 10965

Date: July 6, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 11-51: Application of Pearl River Animal Hospital for a variance from Chapter 43 (Zoning) Section 3.11, Column 5 #6 (Sign Area: 12 sq. ft. permitted, 48 sq. ft. proposed); 18 sq. ft. standing illuminated sign to remain which was approved in ZBA#73-25; 30 sq. ft. new building sign illuminated proposed; 14 sq. ft. building sign was previously approved; for a new sign at the Pearl River Animal Hospital. The premises is located at 19 South Pearl Street, Pearl River, New York an identified on the Orangetown tax Map as Section 68.19, Block 4, Lot 9; CO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 6, 2011 at which time the Board made the determination hereinafter set forth.

Anton Stenzler and Diane Stenzler appeared and testified.

The following documents were presented:

1. Site plan.
2. Sign plan by Frohling Sign Co..
3. A letter dated June 30, 2011 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
4. A letter dated June 29, 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 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; Mr. Warren, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

Anton Stenzler testified that there was a sign on the building as far back as 1975' that the sign was removed and never replaced; that there is one sign along the highway on the Animal Hospital property but there is a lot of State land between the sign and the road; that the sign is not that noticeable and they would like to install the illuminated sign on the building because many people have a hard time finding the building.

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 sign variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed new sign will have no impact on the State road and will allow customers to find the Animal Hospital.
2. The requested sign variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The new sign on the building could allow for better traffic flow since patrons will not be slowing down on the State road while searching for the Animal Hospital.
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 new sign on the building could allow for better traffic flow since patrons will not be slowing down on the State road while searching for the Animal Hospital.
4. The requested sign variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The new sign on the building could allow for better traffic flow since patrons will not be slowing down on the State road while searching for the Animal Hospital.
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 sign 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 sign 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 6, 2011

#### DECISION

#### §4.54 (SINGLE FRONT DOOR) AND BUILDING HEIGHT VARIANCES APPROVED

To: Cornelius and Antonia Noonan  
46 Carleton Road  
Orangeburg, New York 10962

ZBA # 11-52

Date: July 6, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-52: Application of Cornelius Noonan for variances from Chapter 43 (Zoning), Section 3.12, Group Q, RG District, Column 12 (Building Height: 13’ permitted, 22’ 5” proposed) and from Section 4.54 (There shall be only a single front entrance to the dwelling) for a proposed addition to an existing single-family residence. Premises are located at 46 Carlton Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.06, Block 1, Lot 31; RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 6, 2011 at which time the Board made the determination hereinafter set forth.

Cornelius and Antonia Noonan appeared and testified.

The following documents were presented:

1. Architectural plans dated 04/02/2011 not signed or sealed by Demetris Demetriou, Architect.
2. Revised plans dated 07/06/2011 by Demetris Demetriou, Architects not signed or

sealed (8" x 10").

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

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

Cornelius Noonan Testified that they are proposing an addition of garage space/ mudroom and family room space; that they are also adding a master bedroom suite, closets and will have four bedrooms when the construction is done; that their families are from Annapolis and Ireland and when they visit, they stay for long periods of time; that they have thought about the two front doors and they have a revised plan and moved the main door to the left side of the porch by the large window and it no longer faces the front of the house; that from the street the door to the new proposed mudroom is the only door that is noticeable.

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 § 4.54 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 neighborhood.
2. The requested § 4.54 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 neighborhood.
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 moved the second front door to the side of the front porch, eliminating it from view from the street.
4. The requested § 4.54 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 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 § 4.54 and building height variances are APPROVED as modified by revised plans dated 07/06/2011 which show the second front door moved to the left side of the large window facing east; 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 § 4.54 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 6, 2011

DECISION

ACCESSORY STRUCTURE DISTANCE VARIANCE APPROVED

To: Michael Tersigni

ZBA # 11-53

141 Washington Spring Road  
Palisades, New York

Date: July 6, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 11-53: Application of Michael Tersigni for a variance from Chapter 43 (Zoning), R-40 District, Section 5.153 (Accessory Structure Distance: 15' required, 10.83' approved; ZBA#06-29, 6.5' proposed) to add stair access to an existing garage at an existing single family residence.. The premises is located at 141 Washington Spring Road, Palisades, New York an identified on the Orangetown tax Map as Section 78.18, Block 2, Lot 7.1; R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 6, 2011 at which time the Board made the determination hereinafter set forth.

Michael Tersigni appeared and testified.

The following documents were presented:

1. Architectural plans not dated or signed or sealed by Tersigni/Palachek , Architects.
2. Site plan dated 04/21/2011 by Tersigni/Palachek Architects.
3. Zoning board of Appeals Decision #06-29 dated 04/05.2006.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. 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 Tersigni testified that the garage was built by the previous owner five years ago; that they would like to add a staircase on the side of the garage for easier access to the bonus room; that he has a six-year old son and would like store some of his toys in that room; that presently there is a pull-down ladder that makes use of the room difficult; that there is not enough room inside the garage to add stairs; that the garage is 20' x 20'; that when two cars are parked in the garage there is about 18" between them; and that he was trying to design the stairs to fit into the historic nature of the neighborhood.

Public Comment:

No public comment.

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

A satisfactory statement in accordance with the provisions of Section 809 of the General

Municipal Law of New York was received.

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested accessory structure distance variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is undersized by 17,000 square feet; and the proposed staircase would need either rear or front yard variances if they were moved to the other side or the rear of the garage.
2. The requested accessory structure distance variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed location of the outdoor staircase does not require a lot of additional hardscape.
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 garage was already granted a variance for accessory structure distance (ZBA#06-29) because of the undersized lot.
4. The requested accessory structure distance variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The lot is undersized by 17,000 square feet; and the proposed staircase would need either rear or front yard variances if they were moved to the other side or the rear of the garage.
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 accessory structure distance variance is **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 accessory structure distance variance was presented and moved by Ms. Salomon, 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 6, 2011

#### DECISION

#### FLOOR AREA RATIO (.227) ,FRONT YARD, SIDE YARD (10.9') AND BUILDING HEIGHT VARIANCES APPROVED AS MODIFIED

To: Guiseppe and Catherine Caltagirone

ZBA # 11-54

20 Greene Street

Date: July 6, 2011

Tappan, New York 10983

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-54: Application of Guiseppe and Catherine Caltagirone for variances from Chapter 43 (Zoning), Section 3.12, Group M, R-15 District, Columns 4 ( Floor Area ratio: .20 permitted, .23 proposed), 8 (Front Yard: 30' required, 26.8' proposed), 9 (Side Yard: 20' required, 9.3' proposed), and 12 (Building Height: 9.3' permitted, 14.1' proposed) for and addition to an existing single-family residence. The premises are located at 20 Greene Street, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.06, Block 2, Lot 21 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 6, 2011 at which time the Board made the determination hereinafter set forth.

Catherine Caltagirone and Jonathan Hodash, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 01/25/2005 with the latest revision date of 02/08/2011 signed and sealed by Jonathan Hodash, Architect, (10 pages).

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

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

Jonathan Hodash, Architect, testified that the existing house was built in 1997; that it was built without variances; that the house has had water problems on the side of the proposed addition; that the proposal is to add a front porch with additions to the garage with a retaining wall behind it to help divert the water; that garage was proposed with a hip roof to minimize the requested height variance on right side but it did not look nice; that the garage was pushed back to accommodate the covered entrance; that there is no attic in the house and attic space above the garage is proposed; that the grading of the property works for the garage to be added to that side of the house because there is an existing driveway there; that the Caltagirone's have three cars and bicycles to store in the garage; that if they had to cut back they could reduce the garage from 25.6' to 24' wide as a concession which would change the side yard to 10.9 and would change the floor area ratio and permitted building height.

Catherine Caltagirone testified that they love the neighborhood and would like to stay in it; that they have had two additional children since they purchased the house and need more room.

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 floor area ratio, front yard, side yard and building height variances as modified will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has reduced the side yard variance request by 1 ½' which reduces the floor area ratio and changes the permitted height.
2. The requested floor area ratio, front yard, side yard, and building height variances as modified will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar variances have been granted 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 applicant has reduced the side yard variance request by 1 ½' which reduces the floor area ratio and the permitted height.
4. The requested floor area ratio, front yard, side yard, and building height variances as modified, are not substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The applicant has reduced the side yard variance request by 1 ½' which reduces the floor area ratio and the permitted height.
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 (.227), front yard, and side yard (10.9') variances as modified and the requested building height variance are APPROVED as modified by reducing the width of the proposed garage to 24' from the proposed 25.6'; 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 (.227), front yard, side yard (10.9’) and building height variances as modified by reducing the proposed garage from 25.6’ wide to 24’ wide; 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 6, 2011

## DECISION

### FRONT YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Mary Grace Alicea

ZBA # 11-55

59 Greywood Drive  
Orangeburg, New York 10962

Date: July 6, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-55: Application of Mary Grace Alicea for variances from Chapter 43 (Zoning), Section 3.12, RG District, Group Q, Columns 8 ( Front Yard: 25’ required, 17’ proposed) and 12 ( Building Height: 12.6 permitted, 16.8’ proposed) for an addition to an existing single-family residence. The premises are located at 59 Greywood Drive, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.13, Block 4, Lot 48 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 6, 2011 at which time the Board made the determination hereinafter set forth.

Mary Grace Alicea appeared and testified.

The following documents were presented:

1. Architectural plans dated 05/05/2011 signed and sealed by Harry J. Goldstein, Architect.

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

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

Mary Grace Alicea testified that the addition is proposed to accommodate her mom moving in with the family; that they are adding a handi-cap accessible bathroom, bedroom and living area on the first floor and extending their bedroom over the garage to give them closet space; that her mom's living area will be located close to the kitchen; that there is only one front door on the house; that there are five kids in the family, her husband, a dog and mom; that there is one set of steps at the front door and her mom only needs to use them to get in or out of the house; that she is in therapy now and walks with a cane on stairs and a walker in the house; and that the property has two front yards.

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 and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant's property is a corner lot with two front yards.
2. The requested front yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant's property is a corner lot with two front yards.
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. There is no other location on the property to construct the living area for handi-cap accessibility that would be close to the existing kitchen.
4. The requested front yard and building height variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The applicant's property is a corner lot with two front yards.
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.
- 6.

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

**General Conditions:**

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

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

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

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

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

The foregoing resolution to approve the application for the requested front yard and building height variances was presented and moved by Mr. 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 6, 2011

#### DECISION

#### FRONT YARD VARIANCE APPROVED

To: Joseph and Jacqueline Guarracino

ZBA # 11-56

51 Walnut Street  
Blauvelt, New York 10913

Date: July 6, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-56: Application of Joseph and Jacqueline Guarracino for a variance from Chapter 43 (Zoning), Section 3.11, R-15 District, Column 8 (Front Yard: 30' required,

12' proposed) for the installation of an above-ground pool at an existing single-family residence. Premises are located at 51 Walnut Street, Blauvelt, New York and identified on the Orangetown Tax Map as Section 70.15, Block 1, Lot 36; 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 6, 2011 at which time the Board made the determination hereinafter set forth.

Jacqueline Guarracino appeared and testified.

The following documents were presented:

1. Site plan with pool drawn in.
2. A letter dated June 29, 2011 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
3. A letter dated June 1, 2011 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
4. A letter dated June 15, 2011 from the State of New York Department of Transportation signed by Mary Jo Russo, 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 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; Mr. Warren, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

Jacqueline Guarracino testified that she would like to install an 18' round above ground pool in her back yard; that she found out that she has three front yards when she applied for the permit for the pool; that the street in the rear of house, Birch Street is a paper street and her back yard is really a front yard because of the paper street.

#### 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 street to the rear of the proposed pool only exists on paper and in reality are woods.

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 street to the rear of the proposed pool only exists on paper and in realty are woods.
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 applicant has three front yards and would require a variance for the pool no matter where she located it on the property.
4. The requested front yard variance is not substantial and will not have an adverse effect or impact on the physical or environmental conditions of the area. The street to the rear of the proposed pool only exists on paper and in realty are woods.
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 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 front yard variance 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 6, 2011

## DECISION

### FLOOR AREA RATIO AS MODIFIED, FRONT YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: James and Theresa Schlag

ZBA # 11-57

102 Wildwood Drive

Date: July 6, 2011

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-57: Application of James and Theresa Schlag for variances from Chapter 43 (Zoning), Section 3.12 R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .305 proposed) 8 (Front Yard: 30’ required, 29.5’ proposed) and 10 (Total Side Yard: 50’ required, 47.7’ proposed) for an addition to an existing single family residence. The premises is located at 102 Wildwood Drive, Pearl River, New York an identified on the Orangetown tax Map as Section 69.17, Block 4, Lot 27; R-15 zoning district

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 6, 2011 at which time the Board made the determination hereinafter set forth.

James and Theresa Schlag and Joseph Bruno, Architect, appeared and testified.

The following documents were presented:

1. Survey dated 12/15/1960 by Barbour & Jost, PLS.
2. Architectural plans dated 04/07/2010 with the latest revision date of 01/20/2011 signed and sealed by Joseph J. Bruno, Architect.
3. Seven pictures of the Schlag house and surrounding houses with additions.
4. A letter in support of the application signed by five neighbors.

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

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

Joseph Bruno, Architect, testified that the house is the typical split level house that was

built in the 60's; that there are three bedrooms on the upper level, down a ½ flight of steps is the living room, kitchen and dining area; down another ½ flight is the playroom, bedroom and ½ bath; that the lower level has the garage and utility room; that they are proposing to add a portico to cover the front entrance, expand the bathroom and laundry room; that the lower level is a complete walk out to the rear yard; that the garage will be expanded by three feet and on that level will be a work out room, office/guestroom and ½ bath; that the main level will be expanded out to the rear by 26' from the back wall to enlarge the kitchen/dining area and add a large family room; that the family lives on this level of the house; that the three existing bedrooms will remain the same and a master bedroom suite will be added at the rear of the house above the proposed family room; that the proposed addition is comparable to other additions that have been constructed in the neighborhood; and that if they have to reduce the floor area ratio they could remove two feet from the rear wall of the house, resulting in 140 sq. ft. reduction and they could remove the second staircase to the basement, resulting in an additional 90 sq. ft., which would reduce the requested floor area ratio from the requested .305 to .295.

James Schlag testified that he grew up in this neighborhood, that his parents live around the corner; that he has sisters and cousins living in the area and would like to have enough room to entertain all of them; that all of the kids on the block hang around their house and they love it; that they really need more room to accommodate their lifestyle.

Theresa Schlag testified that they have been working on this plan for two years; that they are not trying to be excessive; that their immediate family is large; that they would like to have the main floor expanded to accommodate the immediate family when they are over for gatherings; presently no one can walk around the table in the dining room if every seat is taken; and they would really appreciate the granting of the variances.

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 as modified to .2959, front yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the neighborhood.
2. The requested floor area ratio as modified to .2959, front yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the neighborhood.
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 as modified to .2959, front yard and total side yard

variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar additions have been constructed in 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 floor area ratio as modified to .2959, front yard and total side yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested floor area ratio as modified to .2959, front 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 6, 2011

## DECISION

### SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: Sean and Debra Cotter

ZBA # 11-58

47 East Road

Date: July 6, 2011

Blauvelt, New York 10913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-58: Application of Sean and Debra Cotter for variances from Chapter 43 (Zoning), Section 3.12, Group M, R-15 District, Column 9, (Side Yard: 20' required, 11.2' proposed), 10 (Total Side Yard: 50' required, 40.6' proposed) for an addition to an existing single-family residence. The premises are located at 47 East Road, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.18, Block 1, Lot 6 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 6, 2011 at which time the Board made the determination hereinafter set forth.

Sean and Michael Cotter and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Plot plan dated 03/30/2011 signed and sealed by Edward Gannon, PLS.
2. Architectural plans dated 04/08/2011 signed and sealed by Harry J. Goldstein, Architect.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. 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 Cotter testified that his parents left their house to his son, Sean; that Sean and his wife are professionals with a young child; that he and his wife live in Nanuet and would like to sell their house and move in to the proposed addition; that this situation will help both of them; that he and his wife can provide childcare and since they are retired and living on a fixed income, their cost of living will be less sharing a house; that he grew up I Blauvelt and would love to come back; that the property is shaped like a trapezoid and this is the most logical place for the addition since there is an existing pool in the rear yard; and that they have no intention of having two kitchens.

Donald Brenner, Attorney, testified that they are not requesting an owner occupied two-

family; that there will be one shared kitchen with separate living areas.

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 lot is oddly shaped and there is no other location to construct the addition that would not need variances.
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 lot is oddly shaped and there is no other location to construct the addition that would not need variances.
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 stated that there are no plans to convert the house to an owner occupied two-family house. The lot is oddly shaped and there is no other location to construct the addition that would not need variances.
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 lot is oddly shaped and there is no other location to construct the addition that would not need variances.
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 Mr. Salomon, 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 6, 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









































