

MINUTES
ZONING BOARD OF APPEALS
July 7, 2010

MEMBERS PRESENT: WILLIAM MOWERSON
JOAN SALOMON
NANETTE ALBANESE

ABSENT: PATRICIA CASTELLI
DANIEL SULLIVAN

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

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEMS:

ANDA REALTY 68.16 / 6 / 39; CS zone	SIDE YARD, TOTAL SIDE YARD AND REAR YARD VARIANCES FAILED TO CARRY	ZBA#10-26
--	--	-----------

FENWICK 70.13 / 2 / 10; R-15 zone	FLOOR AREA RATIO VARIANCE APPROVED AS AMENDED	ZBA#10-40
--------------------------------------	---	-----------

NEW ITEMS:

LAPINS 70.10 / 1 / 73; R-40 zone	REAR YARD VARIANCE APPROVED	ZBA#10-44
-------------------------------------	--------------------------------	-----------

INGERSOLL 70.18 / 3 / 9; R-15 zone	FLOOR AREA RATIO, SIDE YARD, TOTAL SIDE YARD, §§ 4.52, 4.54, 4.58 VARIANCES APPROVED WITH COVENANT	ZBA#10-45
---------------------------------------	---	-----------

COSGROVE 68.15 / 1 / 16; R-15 zone	FRONT YARD VARIANCE APPROVED	ZBA#10-46
---------------------------------------	---------------------------------	-----------

O'SULLIVAN 69.09 / 3 / 42; R-15 zone	FRONT YARD VARIANCE APPROVED	ZBA#10-47
---	---------------------------------	-----------

GEOGHEGAN 77.11 / 2 / 86; R-15 zone	SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED with REVISED PLANS	ZBA #10-48
--	---	------------

AERCO INTERNATIONAL PERFORMANCE STANDARDS 70.06 / 1 / 1.12; LO zone	PERFORMANCE STANDARDS APPROVED WITH CONDITIONS	ZBA#10-49
---	---	-----------

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following applications: 622 Route 303 Subdivision Plan (3 lots) and Site plan, 622 Route 303, Blauvelt, New York, 65.14 / 1 / 11; LI zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 11:15 P.M.

Dated: July 7, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DECISION

MOTION TO APPROVE
FAILED TO CARRY: DEEMED DENIED

To: Anda Realty LLC

ZBA # 10-26

Edna McCormack
37-37 9th Street
LIC, N.Y. 11101

Date: April 21, 2010
June 16, 2010
July 7, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-26: Application of Anda Realty LLC for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, CS District, Group FF, Section 3.12, Columns 9 (Side Yard: 0/12'' required, 5' proposed), 10 (Total Side Yard: 0/25' required, 10' proposed), 11 (Rear Yard: 25' required, 10' proposed) and from Section 9.34 (Expansion of Non-Conforming Bulk) for the addition of a two-car garage at an existing two-family residence. The premises are located at 153 East Central Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.16, Block 6, Lot 39; CS zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on the following Wednesdays, April 21, 2010, June 16, 2010 and July 7, 2010, at which time the Board made the determination hereinafter set forth.

The following documents were presented:

1. Architectural plans dated 7/7/09 signed and sealed on 1/25/10 by James Tanner Architect (2 pages).
2. Site plan revised January 18, 2010, signed and sealed by James Tanner, Architect.
3. A letter dated April 19, 2010 from County of Rockland, Department of Planning, signed by Salvatore Corallo, Commissioner of Planning.
4. A letter dated April 19, 2010 from County of Rockland, Department of Highways, signed by Joseph Arena, Principal Engineering Technician.
5. A letter dated April 6, 2010 from County of Rockland Sewer District No. 1, signed by Joseph LaFiandra, Engineer II.
6. A letter dated March 15, 2010 from County of Rockland Drainage Agency, signed by Edward F. Devine, Rockland County Drainage Agency.
7. A memorandum dated July 6, 2010 from John Giardiello, Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.

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

At the April 21, 2010 meeting, Liam McCormack and Edna McCormack, owners, appeared and testified that they would like to expand the garage to a two car garage at the existing two-family residence. The applicants stated that they collect cars and need to store the collector cars. That the site contains an existing building that contains two residential apartments and an office, and that it is an open lot with a yard.

Public Comment:

Karl Ackerman, 159 E. Central avenue, Pearl River, New York; stated he did not receive an abutting letter for this meeting. Mr. Ackerman has concerns about the application; and that the prior owner expanded a single apartment 2 years ago and the property was sold to a new construction company; and that the property has an existing substandard sized driveway; that the trucks using the driveway straddle his driveway; and that the garage should be made smaller.

Susan Perzigian, 138 E. Washington Avenue, stated that she lives behind the garage and that she is upset over the size; and that there are commercial vehicles backed up to her fence.

At the June 16, 2010 meeting, Liam McCormack and Edna McCormack, owners, Donald Brenner, Attorney, appeared and testified.

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

Donald Brenner, Attorney, testified that the application was before the Board about a month ago; that the original design has been cut back; that they have removed four feet from the depth of the garage and two feet from its width; that they will plant additional evergreen plants in the rear of the garage; that this property is located in a CS zone and because of that can by right have a 0' side yard; that the garage would be used in conjunction with the existing office space which is permitted in the CS zone; that the garage would be used to store vintage cars; that they are not reducing the parking for the residential use in the building; that there is enough parking for the office ; that no vehicle repair work would be done on this site; that they are willing to put up a temporary or

permanent railing along the drive to protect the neighbors property; and that they would like to request a continuance for clarification of the denial.

Public Comment:

Jim Russell, 144 E. Washington Avenue, testified that he owns the property directly behind the applicant; that he spoke to Edna and originally indicated that it was not an issue but it looks bigger than he expected; that he does not have problem with the distance, his problem is with the size; that it is very high and looks like it could have lift installed; that could lead to refurbishing of vehicles; and the height of the one bay is a real concern.

Karl Ackerman, 159 East Central Avenue, testified that this is a commercial expansion and it is an S-2 and needs to be looked at; that he has concerns regarding the property line, the use of the structure lights at night, and issues with the construction vehicles; that there is no room for hem to enter the property; that this application should be going for performance standards; that this project requires a 25' buffer; that the project should not go forward; that the application does not look official; that the property line is split at the wall; and this property has been expanded already.

Susan Perzigian, 138 E. Washington Avenue, testified that she is a neighbor in the rear; that she has a problem with the size of the building; that the evergreens in the area are 10' tall; and the large structure will change the character of the neighborhood.

At the July 7, 2010 meeting Donald Brenner, Attorney and Enda McCormack

Donald Brenner, Attorney testified that Mr. Giardiello's letter clarified the questions that were asked at the last hearing regarding the expansion of a non-conforming use; that he brought with him an affidavit as requested in the letter indicating that the use of the garage is accessory to the commercial user of the property; that as the letter states the applicant would need to go to the Planning Board and ACABOR if they are granted the side yards and rear yard variances that are needed for the garage.

Edna McCormack testified that both his an his brother's wife work at the office in Pearl River; that they also have another office in Long Island City; that they purchased this property to have an office closer to home for their wives to work from; and that they will install a fence along the driveway during construction.

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.

A motion to approve the application for the requested 7' side yard, 12' total side yard, and 14' rear yard variances as amended was presented and moved by Mr. Mowerson, seconded by Ms. Salomon, and FAILED TO CARRY (deemed denied) as follows: Ms. Albanese, nay; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli and Mr. Sullivan were absent.

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

DATED: July 7, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

DECISION

FLOOR AREA RATIO VARIANCE APPROVED AS MODIFIED; FRONT YARD AND REAR YARD VARIANCE REQUESTS WITHDRAWN

To: Michael and Lauren Fenwick

ZBA # 10-40

24 Renie Lane

Date: June 16, 2010

Blauvelt, New York 10913

July 7, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-40: Application of Michael and Lauren Fenwick for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area ratio: .20 permitted, .36.15 proposed, .306 granted), 8 (Front Yard: 30' required, 26.7' proposed but withdrawn), and 11 (Rear Yard: 35' required, 34.9' proposed but withdrawn) for an addition to an existing single-family residence. The premises is located at 24 Renie Lane, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.13, Block 2, Lot 10; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, June 16, 2010 and July 7, 2010 at which time the Board made the determination hereinafter set forth.

Michael and Lauren Fenwick appeared and testified.

The following documents were presented:

1. Architectural plans dated 3/16/10 (4 pages), revision date: July 5, 2010 signed and sealed by Sanford Lent, P.E..
2. Copy of survey dated 8/12/1967 by Fabian C. Adler & Associates, P.E..

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

Michael Fenwick testified that they would like to renovate and add onto their existing high ranch; that they have two young children and are planning to have more; that his Mom recently had knee replacement and is moving in with them; that they are proposing a bedroom and sitting area and bathroom on the lower level of the house for his mom and four bedrooms upstairs; that presently there are three bedrooms but two of them are tiny and they are planning to combine them into one bedroom; that the proposed addition is 36' x 30'; that he wanted to keep the 6' between the house and garage for aesthetic reasons; that he can cut the proposed addition back and requested a continuance till July 7, 2010.

At the July 7, 2010 meeting Michael Fenwick testified that they took four feet off the

width of the extension and four feet off the length of the addition; that the proposed addition is 26' by 32 feet; that this change reduces the floor area ratio to .306; that they wanted the peak in the front of the house for aesthetic reasons; that they do not need a six foot jut out; that they are withdrawing the request for a front yard and a rear yard variance; that they will bring in revised plans that show the change in the roof peak without the need for a front yard variance.

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 variance, as modified to .306, will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested floor area ratio variance, as modified to .306, will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio variance, as modified to .306, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar additions have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested floor area ratio variance, as modified to .306, is **APPROVED**, and the requests for front yard and rear yard variances are not reviewed by the Board; 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 variance, as modified to .306, is approved, and noted that the requests for front yard and rear yard variances were withdrawn (not reviewed by the Board), was presented and moved by Mr. Mowerson, seconded by Ms. Salomon, and carried as follows: Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli and Mr. Sullivan were absent.

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

DATED: July 7, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

DECISION

REAR YARD VARIANCE APPROVED

To: Vanessa Lapins

ZBA #10-44

659 Western Highway
Blauvelt, New York 10913

Date: July 7, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-44: Application of Vanessa Lapins for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown, R-40 District, Group E, Section 3.12, Column 11 (Rear Yard: 50' required, 48.3' proposed) for an addition to an existing single-family residence. The premises are located at 659 Western Highway, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.10, Block 1, Lot 73; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 7, 2010 at which time the Board made the determination hereinafter set forth.

Margaret Fowler, Architect, Vanessa Lapins and Jeff Torrens, Contractor, appeared and testified.

The following documents were presented:

- 1 Architectural plans dated 5/5/10 (12 pages) not signed or sealed by Margaret Fowler, Architect.
2. Survey dated April 22, 2010 signed and sealed by Robert E. Sorace, L.S.

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: Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Ms. Castelli and Mr. Sullivan were absent.

Margaret Fowler, Architect, testified that they are proposing to remove the existing screen porch and adding a mudroom, laundry room and bathroom in its place; that the house is in the R-40 zone and all of the houses surrounding it are in the R-15 zone; that they do not want to add onto the southeast side of the house because the kitchen is there and they are renovating the kitchen at the same time the addition is being worked on; that the existing kitchen is very dark and they are shifting the kitchen into the rear to add windows for more light; that the addition is not large; that if they reduced the addition in width it would become more of a hallway than actual usable space; and that the floor area ratio increase is less than ½ %.

Vanessa Lapins testified that she has two boys and would like to create a space for some of their outdoor stuff by adding cubbies to the mudroom; that the bathroom on the first floor would be very convenient; and the laundry room would be well used with two boys

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.

Mr. Mowerson made a motion to close the Public Hearing which motion was seconded by Ms. Salomon 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. Similar additions have been constructed in the area.
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. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested rear yard variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar additions have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

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

DATED: July 7, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN
Deborah Arbolino

DECISION

FLOOR AREA RATIO, SIDE YARD, TOTAL SIDE YARD, AND §§ 4.52, 4.54 and 4.58 VARIANCES APPROVED WITH CONDITIONS

To: Richard and Kathleen Ingersoll

ZBA # 10-45

55 Moehring Drive

Date: July 7, 2010

Blauvelt, New York 10913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-45: Application of Richard and Kathleen Ingersoll for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .22 proposed), 9 (Side Yard: 20' required, 13.5' proposed), 10 (Total Side Yard: 50' required, 28.5' proposed) and from Section 4.52 (No significant exterior changes or additions), 4.54 (Single front entrance permitted, 2 proposed) and 4.58 (Owner must reside in residence for 15 years, 9 years proposed) for an addition and alteration to an existing single-family residence to make it an owner occupied two-family residence. The premises is located at 55 Moehring Drive,

Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.18, Block 3, Lot 9; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 7, 2010 at which time the Board made the determination hereinafter set forth.

Richard and Kathleen Ingersoll, Virginia Lynch, and Robert Hoene, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 4/21/2010 (5 pages) signed and sealed by Robert Hoene, Architect.
2. A letter of explanation dated June 9, 2010 signed by Kathleen and Richard Ingersoll.
3. A letter dated June 30, 2010 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
4. A letter dated July 2, 2010 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
5. A letter dated May 21, 2010 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
6. A letter dated May 25, 2010 from the County of Rockland Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
7. Six letters from abutting property owners in support of the application.

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

On advice of 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: Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Mr. Sullivan and Ms. Castelli were absent.

Robert Hoene, Architect, testified that the application is for a renovation and addition to the existing house; that a second floor is proposed for over the existing living room; that the lower level den and garage are proposed to become an apartment for Mrs. Lynch; that the proposed apartment meets the 600 sq. ft. requirement and the applicant is willing to file the required covenant; that they are proposing to add a garage to replace the garage that will become part of the apartment; that they are also proposing a front porch; that he did a similar addition to another house on this street; that the second front door is needed for handicap access to the apartment; that the door could be moved over but it was designed to look like an entrance into the garage; and that there will not be an entrance from the new garage into the house.

Public Comment:

Bob O'Neill, 49 Moehring Drive, testified that he saw the plans and is in support of the application; that Mr. Hoene designed his addition; that the second door looks like an entrance into the garage; and that he has questions regarding the covenant.

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 floor area ratio, side yard, total side yard and §§ 4.52, 4.54 and 4.58 variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area. The applicant has agreed to execute a covenant, acceptable in form and substance to the Town Attorney and filed with the County Clerk's Office that conforms to the requirements of Zoning Code §4.51 (i.e. the house must be owner occupied, etc)
2. The requested floor area ratio, side yard, total side yard and §§ 4.52, 4.54 and 4.58 variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area. The applicant has agreed to execute a covenant acceptable in form and substance to the Town Attorney and filed with the County Clerk's Office that conforms to the requirements of Zoning Code §4.51 (i.e. the house must be owner occupied, etc)
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, side yard, total side yard and §§ 4.52 and 4.58 variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar additions have been constructed in the area. The applicant has agreed to execute a covenant acceptable in form and substance to the Town Attorney and filed with the County Clerk's Office that conforms to the requirements of Zoning Code §4.51 (i.e. the house must be owner occupied, etc)
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, side yard, total side yard and §§ 4.52, 4.54 and 4.58 variances are **APPROVED**; with the **SPECIFIC PRIOR CONDITION** that the applicant has agreed to execute a covenant acceptable in form and substance to the Town Attorney and filed with the County Clerk's Office that conforms to the requirements of Zoning Code §4.51 (i.e. the house must be owner occupied, etc); and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be

obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

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

The foregoing resolution to approve the application for the requested floor area ratio, side yard, total side yard and §§ 4.52, 4.54 and 4.58 variances, with specific conditions, was presented and moved by Ms. Salomon, seconded by Mr. Mowerson and carried as follows: Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli and Mr. Sullivan were absent.

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

DATED: July 7, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN
Deborah Arbolino

DECISION

FRONT YARD VARIANCE APPROVED

To: Gregory and Grace Cosgrove

ZBA # 10-46

29 Washington Place

Date: July 7, 2010

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-46: Application of Gregory and Grace Cosgrove for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown Section 3.12, R-15 District, Group M, Column 8 (Front Yard: 30' required, 24.5' proposed) for a wrap around porch addition to an existing single-family residence. The premises is located at 29 Washington Place, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.15, Block 1, Lot 16; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 7, 2010 at which time the Board made the determination hereinafter set forth.

Gregg Cosgrove and Robert Hoene, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated August 8, 2010 (1 page) signed and sealed by Robert Hoene, Architect.
2. Site plan not signed or sealed.
3. A letter in support of the application signed by two abutting property owners.

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

Gregg Cosgrove testified that the existing porch is very old and restricting; that in order to open the front door the person on the porch needs to step down onto one of the steps because the porch is not wide enough to accommodate the open door and person; that they would like to widen the porch enough to make the door accessible for the person standing on the porch; that they have a seven year old and the bus stop is across the street; that the porch would offer a safe covered space for her to wait for the bus; that they would like to connect to and widen the existing porch on the side of the house and make the structure a wrap around porch; that their daughter plays with the children across the street and they are back and forth between the two houses all of the time; and that there are many other two story homes in the neighborhood with porches.

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 additions have been constructed in the area.
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 additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested front yard variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar additions have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

General Conditions:

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

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

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

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be

obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated

hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

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

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

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

DATED: July 7, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN
Deborah Arbolino

DECISION

FRONT YARD VARIANCE APPROVED

To: Brian and Adrienne O'Sullivan

ZBA # 10-47

30 Pauline Terrace

Date: July 7, 2010

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-47: Application of Brian and Adrienne O'Sullivan for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, R-15 District, Group M, Column 8 (Front Yard: 30' required, 20.128' proposed) for an addition to an existing single-family residence. The premises is located at 30 Pauline Terrace, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.09, Block 3, Lot 42; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 7, 2010 at which time the Board made the determination hereinafter set forth.

Brian O'Sullivan, Douglas Siebenaler, Architect, and John Warner, Contractor, appeared and testified.

The following documents were presented:

1. Architectural plans dated 5/11/10 (2 pages), revised 6/4/10 signed and sealed by Paul Douglas Siebenaler, Architect.

2. Site plan dated April 11, 2010 based on a survey dated January 9, 1952 by Robert Jost, Surveyor, by Beckerle-Brown Inc.
3. Three letters from abutting property owners in support of the application.

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

On advice of 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: Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Mr. Sullivan and Ms. Castelli were absent.

Brian O'Sullivan testified that he presently has a two bedroom Cape Cod style house; that the second floor is vacant; that he would like to make the second floor a usable space with three bedrooms and a master bathroom; that he wears a prosthesis and the master bathroom would be very useful because of his disability; that the plan is to go straight up over the existing foundation and add a small portico to the front of the house for coverage when entering the house; and that four other houses in the neighborhood have built similar additions.

Douglas Siebenaler, Architect, testified that the front yard is already non-conforming and that they would have to appear before the Board even if they were not adding the portico area; that the front portico affords a covered area to stand on before entering the house; that no other variances are required for the proposed addition; and that the front yard set back would be 21.5'.

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. Similar additions have been constructed in the area.
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 additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.

4. The requested front yard variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar additions have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested 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: Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Mr. Sullivan and Ms. Castelli were absent.

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

DATED: July 7, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN
Deborah Arbolino

DECISION

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

To: Colm Geoghegan

ZBA # 10-48

99 Campbell Avenue

Date: July 7, 2010

Tappan, New York 10983

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-48: Application of Colm Geoghegan for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, R-15 District, Group M, Columns 9 (Side Yard: 20' required, 14' proposed), 10 (Total Side Yard: 50' required, 29' proposed) and 12 (Building Height: 14' permitted, 24' proposed) for an addition to an existing single-family residence. The premises is located at 99 Campbell Avenue, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.11, Block 2, Lot 86; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 7, 2010 at which time the Board made the determination hereinafter set forth.

Colm Geoghegan, Geraldine Martin and Robert Hoene, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans not dated, signed or sealed by Robert Hoene, Architect.
2. Survey dated August 7, 1957 not signed or sealed by William Yuda P.E., two copies of survey one "as is" and one with a hand drawing of the proposed addition.
3. A letter in support of the application signed by four abutting property owners.

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

Robert Hoene, Architect, testified that this is a renovation/addition to a split level that is going up over the existing living room /kitchen, dining area; that this is very similar to house addition that he did on Route 340; that he would like to submit two revised plans that have the upstairs windows removed on the second floor bedroom; that the neighbors were concerned about the windows looking into their house and the applicant has agreed to remove them; that all of the houses on this street have additions; that some have added out in the back and some have gone up; that there are six people in the family; that they are proposing to add a family room with two bedrooms above it with a bathroom; and that the additional two feet in the front of the house squares off the house and is for aesthetic purposes.

Public Comment:

Robert Finning, 91 Campbell Avenue, testified that he has lived in his house for 37 years; that he has no objections to the application; that Mr. Geoghegan removed the windows from the bedroom in answer to his concern for privacy; and that he is in support of the application.

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

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

General Conditions:

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

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

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

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be

obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

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

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

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

DATED: July 7, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

DECISION

PERFORMANCE STANDARDS APPROVED WITH CONDITIONS

To: Jeff Chasen (Aerco International)

ZBA # 10-49

159 Paris Avenue
Northvale, New Jersey 07647

Date: July 7, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-49: Application of Aerco International for Performance Standards for the use of manufacturing and/or assembling of commercial boilers and water heaters pursuant to Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 4.12, for the installation of additional extruders. The premises are located at Section IV Bradley Corporate Park, 100 Oritani Drive, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.06, Block 1, Lot 1.12; LO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on the following Wednesday, July 7, 2010 at which time the Board made the determination hereinafter set forth.

Anthony Laraia, Vice President of Engineering and Operations, Aerco and Adam K. Kurland, Attorney, appeared and testified.

The following documents were presented:

1. Development Plan for Bradley Industrial Park Section IV dated May 1, 2007 signed and sealed by Joseph Corless, P.E.
2. Ten page brochure "Aerco the Leader in High Efficiency Innovation".
3. Use Subject to Performance Standards and Fire Prevention Supplement.
4. A letter dated June 29, 2010 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
5. A memorandum dated 5/25/10 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.
6. A memorandum dated May 27, 2010 from Bruce Peters, P.E., Engineer III, Department of Environmental Management and Engineering, Town of Orangetown.

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

On the 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 exempt from the State Environmental Quality Review Act (SEQRA) pursuant to SEQRA Regulations §617.5 (c) (28) engaging in a review to determine compliance with technical requirements which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Mr. Sullivan and Ms. Castelli were absent.

Anthony Laraia testified that the company sells high efficiency water and heating units for commercial use; that they have been in Northvale since 1949; that they employ 50 people; that half are New York residents and the other half are from New Jersey; that they are presently located in three buildings; that they want to consolidate the operations

into one building; that they need more modern space to develop more products; that the building is expected to be complete on September 1, 2010; that they will submit the additional MDS sheets and the roof vent plan and they will comply with all of the requests of the Fire Inspector and the Department of Environmental Management and Engineering.

Public Comment:

Julie Ann Cantone, 7 Sgt. DeMeola Drive, Blauvelt, testified that her property abuts the corporate park and she has concerns regarding traffic, hazardous waste and operating hours.

The Performance Standards Resume of Operations and Equipment, and the Fire Prevention Supplement completed by the applicant were thereupon reviewed in detail.

The Board members made a personal inspection 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.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, the Board found and concluded that:

1. Based upon the information contained in applicants' Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated 5/25/10 from Michael Bettmann, Chief Fire Inspector, Bureau of Fire Prevention of the Town of Orangetown, the memorandum dated 5/27/10 from Bruce Peters, Engineer III of the Orangetown Department of Environmental Management and Engineering (DEME) concluding there is no reasonable doubt as to the likelihood of applicant's conformance to the Performance Standards, the other documents presented to the Board and the testimony of applicant's representatives, the Board finds and concludes that conformance with the Performance Standards set forth in Orangetown Zoning Code Section 4.1 will result sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to compliance with the orders, rules and regulations of Orangetown's Office of Building, Zoning & Planning Administration & Enforcement (OBZPAE) and the Bureau of Fire Prevention, and all other departments having jurisdiction of the premises.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for Performance Standards Conformance is **APPROVED** with the **SPECIFIC CONDITION** that the applicant adhere to all of the requirements set forth by the Town of Orangetown's Bureau of Fire Prevention, DEME and OBZPAE; **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 seeking conformance to the Performance Standards was presented and moved by Mr. Mowerson, seconded by Ms. Salomon, and carried as follows: Mr. Mowerson, aye; Ms. Salomon, aye; and Ms. Albanese, aye. Mr. Sullivan and Ms. Castelli were absent.

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

DATED: July 7, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOW
Deborah Arbolino

