

MINUTES
ZONING BOARD OF APPEALS
JUNE 1, 2011

MEMBERS PRESENT: WILLIAM MOWERSON
 DANIEL SULLIVAN
 JOAN SALOMON
 NANETTE ALBANESE
 PATRICIA CASTELLI

ABSENT: NONE

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

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEM:

KOREAN 7 TH DAY ADVENTIST CHURCH 70.15 / 1 / 44; R-15 zone	CONTINUED	ZBA#11-29
---	-----------	-----------

NEW ITEMS:

RUBIN 65.17 / 1 / 31; R-40 zone	POSTPONED	ZBA#11-37
------------------------------------	-----------	-----------

DUNLEAVY 77.08 / 5 / 29.1; RG zone	SIDE YARD VARIANCE APPROVED	ZBA#11-38
---------------------------------------	--------------------------------	-----------

KILLCOMMONS 64.19 / 1 / 50; R-22 zone	FLOOR AREA RATIO VARIANCE APPROVED	ZBA#11-39
--	---------------------------------------	-----------

NOLAN MONUMENT SITE PLAN 74.07 / 1 / 7; CC zone	§3.11, COLUMN 3 #8, §§ 13.10 B (2),(7),(10)& (11) APPROVED	ZBA#11-40
--	--	-----------

UNITED WATER 69.14 / 1 / 10; R-15 zone	EXTENSION OF NON-CONFORMING USE APPROVED WITH CONDITIONS	ZBA#11-41
---	--	-----------

FOLEY 77.10 / 2 / 19; R-15 zone	FLOOR AREA RATIO, FRONT YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#11-42
------------------------------------	--	-----------

ADDITIONAL BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following applications: Garvey Sculpture Conditional Use Permit, 103 South Greenbush Road, Orangeburg, N.Y., 74.07 / 1/ 17; LIO zone; Pearl River School District Subdivision Plan-2 lots; 135 West Crooked Hill Road. Pearl River, N.Y., 68.11/2/41.1; R-15 zone; 4 & 6 Depot Square Site Plan, Sparkill, NY , 77.08 / 4 / 25 & 26; CS 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 10:30 P.M.

Dated: June 1, 2011

DECISION

SIDE YARD VARIANCE APPROVED WITH CONDITIONS

To: Sean Dunleavy

ZBA # 11-38

13 William Street
Sparkill, New York 10976

Date: June 1, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-38: Application of Sean Dunleavy for a variance from Chapter 43 (Zoning), Section 3.12, RG District, Group Q, Column 9 (Side Yard: 10' required, 5' proposed) for a one story addition to an existing single-family residence. The premises are located at 13 William Street, Sparkill, New York and are identified on the Orangetown Tax Map as Section 77.08, Block 5, Lot 29.1; in the RG zoning district.

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

Robert Hoene, Architect and Sean Dunleavy appeared and testified.

The following documents were presented:

1. Site plan signed and sealed by Robert Hoene, Architect..
2. Architectural plans dated 04/12/2011 signed and sealed by Robert Hoene, Architect.

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

Robert Hoene, Architect, testified that the existing house is small and exists on a narrow lot; that the proposed expansion to the kitchen does not need any variances; that they are proposing a deck in the rear of the house that would be the width of the existing house and continue the existing side of 4' 11"; that the neighbors have a deck in the rear of their house with a privacy screening of lattice; that there is existing plantings between the two houses; that they would like to have the width of the house and only go back 12' because the property slopes; that they could go further into the rear yard without requiring a rear yard variance but that would impinge on the neighbors privacy more than the width because it would go past their existing deck.

Sean Dunleavy testified that the deck would look lopsided if it wasn't the same width as the house; that he is willing to put up a solid privacy screen on the side of the deck; and that if he went out further into the rear yard his deck would look right onto his neighbors deck; that keeping the width and not going out beyond his neighbors' deck affords both of them more privacy.

Public Comment:

Carol DeMeola, 15 William Street, testified that her property abuts the applicant; that her house is 10' from the property line; that his deck should have to comply with the zoning laws; that this deck will impact the quality of her life; and impact the value of her property.

Thomas DeMeola, 15 William Street, testified that in 1985 he proposed an addition to his house and he had to meet the zoning requirements; that he had to remove an existing garage in order to build his addition; that his neighbor should have to comply with the required ten foot side yard.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The 4' 11" side yard is an existing condition that the applicant is extending along the same line for an additional 12' wide deck, which will have a six-foot high privacy fence along the objecting neighbors' property.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The 4' 11" side yard is an existing condition that the applicant is extending along the same line for an additional 12' wide deck, which will have a six-foot high privacy fence along the objecting neighbors' property.

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 could extend the deck into the rear yard further without the need for an additional variance but that would intrude on the objecting neighbors' privacy more than extending the non-conforming side yard.
4. The requested side yard variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The 4' 11" side yard is an existing condition that the applicant is extending along the same line for an additional 12' wide deck, which will have a six-foot high privacy fence along the objecting neighbors' property.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested side yard variance 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 side yard variance was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, nay; Ms. Salomon, aye; and Mr. Mowerson, aye.

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: June 1, 2011

DECISION

FLOOR AREA RATIO VARIANCE APPROVED
FUTURE POOL ON SITE PLAN NOT REVIEWED, APPROVED
OR DENIED

To: Mike and Beth Killcommons

ZBA # 11-39

15 Peach Street

Date: June 1, 2011

Nanuet, New York 10954

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-39: Application of Michael and Beth Killcommons for a variance from Chapter 43 (Zoning), Section 3.12, R-22 District, Group I, Column 4 (Floor Area Ratio: .20 permitted, .31 proposed) for an addition to an existing single-family residence. The premises are located at 15 Peach Street, Nanuet, New York and are identified on the Orangetown Tax Map as Section 64.19, Block 1, Lot 50; in the R-22 zoning district. Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 1, 2011 at which time the Board made the determination hereinafter set forth.

Mike and Beth Killcommons and John Perkins, Architect, appeared and testified.

The following documents were presented:

1. Survey dated 04/11/2011 signed by Robert Sorace, PLS.
2. Architectural plans dated 02/10/2011 with the latest revision date of 04/12/2011 signed and sealed by John Perkins, Architect.

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

John Perkins, Architect, testified that the property at 15 Peach Street was part of an average density development; that it is zoned R-22 but under the average density R-15 regulations are applied; that they are not planning on extending the existing footprint; that the proposed addition of a guest room and gym are proposed for over the existing two-car garage; that the floor area ratio permitted is .20; that as the house exists the floor area ratio is .28 and with the 489 sq. ft. addition the floor area ratio will be .31; that nearly half of the floor area ratio comes from the existing basement that has ceiling heights of 7.6';

and that there is no where to expand on this property that would not require a variance.

Beth Killcommons testified that they purchased the house in December 2010; that they have four bedrooms and six members of the family; and that they have nine year old twins and a four and five year old.

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 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. This property is part of an average density subdivision, which subdivision plat was approved by the Planning Board with “substandard” lot sizes, and any addition to the property would require a floor area ratio variance.
2. The requested floor area ratio variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This property is part of an average density subdivision, which subdivision plat was approved by the Planning Board with “substandard” lot sizes, and any addition to the property would require a floor area ratio variance.
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 existing floor area ratio exceeds the permitted and is only being increased by .03.
4. The requested floor area ratio variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. This property is part of an average density subdivision, which subdivision plat was approved by the Planning Board with “substandard” lot sizes, and any addition to the property would require a floor area ratio variance.
5. The applicant purchased the property subject to Orangetown’s Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested floor area ratio variance is **APPROVED**; and **FURTHER RESOLVED** that the Zoning Board of Appeals is not reviewing the “future pool” on the site plan, that it was not part of the application and was not requested, approved or denied; and **STILL 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 was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

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: June 1, 2011

DECISION

§3.11 COLUMN 3 #8 SPECIAL PERMIT AND §§13.10B(2),(7), (10) AND (11)
APPROVED; § 13.10 B (4) WITHDRAWN

To: Jay Greenwell (Nolan Monuments)

ZBA # 11-40

85 Lafayette Avenue
Suffern, New York 10901

Date: June 1, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-40: Application of Nolan Monuments Site Plan for approval of a Special Permit under Chapter 43 (Zoning), Section 3.11, Column 3 #8 (Other retail/ services) and from Section 13.10 B.(2)(25' vegetative buffer required 0' buffer provided), 13.10 B.(4)(light fixture on the right of way line not permitted within the Route 303 overlay); Section 13.10, B.(7) (Outside Storage for retail sale prohibited) ; 13.10 B,(10) (Not more than 35% of all parking in the front yard) and Section 13.10 B.(11)(to the extent feasible residential areas were taken into consideration) for the renovation of an existing building and parking lot for a new use as Nolan Monuments and sales... The property is located at 508 Route 303, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 74.07, Block 1, Lot 7; in the CC zoning district.

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

Jay Greenwell, Land Surveyor, Robert Hoene, Architect and Dan Nolan appeared and testified.

The following documents were presented:

1. Site plan for Nolan Monuments dated 07/07/2010 signed and sealed by Jay A. Greenwell, PLS.
2. A narrative dated April 7, 2011 from Jay A. Greenwell, LS.
3. Planning Board Decision #11-13 dated March 9, 2011.
4. A letter dated May 26, 2011 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, Commissioner of Planning.
5. A letter dated June 1, 2011 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
6. A letter dated May 17, 2011 from the County of Rockland Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
7. A letter dated April 20, 2011 from the Department of Environmental Management and Engineering, Town of Orangetown, signed by Scott Burton, Director.

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 since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency, pursuant to coordinated review under the State Environmental Quality Review Act Regulations §617.6 (b) (3) ; and since the Planning Board conducted SEQRA review on March 9, 2011, rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use action (i.e., a 'Negative Declaration' or "Neg Dec"), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations 617.6 (b)(3); which motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye.

Jay Greenwell testified that he has been working on this site for eighteen years; hat there have been a number of proposals for the site; that it once was a Getty gas station; that recently plans were approved for proposed retail sales of auto accessories a the site under the name "Rydes Unlimited"; that the plan was abandoned by the owner; that the new contract purchaser, Dan Nolan, is proposing to relocate his business to this site; that would include a small office area and retail display/sales area for burial monuments and vaults; that they are proposing a site plan configuration that is nearly identical to the approved layout for the "Rydes Unlimited" project; that the existing building will be renovated internally and the existing overhead doors will be maintained for internal parking of the company vehicles; that the parking lot will be upgraded and re-paved with

new curbing around the perimeter, new lighting and new landscaping; that the two existing curb-cuts will be modified in compliance with New York State Department of Transportation requirements; that the first variance requested is a 0' buffer vs. the required 25' buffer; that there is a hardship in maintaining the existing building and providing a buffer area; that it is important to note that the gratuitous road widening that lies between the front lot line and the designated street line does provide a green buffer of approximately 12' width; that the overlay district states that "outside storage for retail sale or wholesale of bulk fuel is prohibited"; that the applicant is requesting permission to store burial vaults behind the building in an area that would not be visible from Route 303 or from the surrounding properties because it would be screened by fencing; that the burial vaults are not typically a "retail item" and do not fall under the heading of retail or wholesale sales of bulk fuel; that they are requesting a variance from this section of the overlay zone; that the next section that requires a variance is for parking in the front yard to 35% of the total; that in this case all of the parking for the site is in the front yard; that the proposed plan is for six spaces that would be located on the existing macadam parking area; that Section 13.10-B (11) requires the applicant to demonstrate that "to the extent feasible" connection to adjoining lots shall be provided; that the applicant has demonstrated the Planning Board that because of the location of the existing building it would be impossible to connect to the Diner; that a connection to the south would be awkward, since that parcel has a one way entrance at angle to Route 303; that the Special Permit is required because this specific use is not listed in any of the categories as permitted by right; that this business will not generate excessive traffic and would be an asset to the community.

Dan Nolan testified that his business is presently located in Haverstraw; that he rents a building and a yard in Haverstraw; that he lives on Kings Highway in Orangeburg; that he grew up in Blauvelt; that this is an ideal location for his business; that there is no manufacturing on site; and that the number of people is limited; that usually there are one or two families that come in per day by appointment.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the proposed special permit use and Route 303 Overlay Zone variances will not adversely affect the character or property values in the area, and will not impair the public health, safety, morals, convenience, comfort, prosperity and other aspects of the general welfare of the Town, for the following reasons:

The requested Zoning Code (Chapter 43) Section 3.11 Column 3 #8 Special Permit use (monument business) meets all of the pertinent applicable requirements set forth in Zoning Code Section 4.31 for the granting of a special permit under Zoning Code §10.333, as more specifically described below:

1. The proposed Special Permit Use will be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities. The requested §§ 13.10 B (2), (7), (10) & (11) variances will not produce an undesirable change in the character of the neighborhood or a detriment

- to nearby properties. The site has been derelict for quite a long time and the proposal will be a vast improvement.
2. The proposed Special Permit Use will not cause undue traffic congestion or create a traffic hazard. The requested §§ 13.10 B (2), (7), (10) & (11) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The site has been derelict for quite a long time and the proposal will be a vast improvement
 3. The proposed Special Permit Use will not create, at any point of determination set forth in §§ 4.16, 4.17 and 4.18, any more dangerous and objectionable elements referred to in § 4.11 than is characteristic of the uses expressly permitted as of right in the same district. 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 building is being renovated in its present location and cannot meet the requirements of the Route 303 Overlay Zone.
 4. The proposed Special Permit Use will comply with all other regulations applicable to such use. The requested §§ 13.10 B (2), (7), (10) & (11) variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The site has been derelict for quite a long time and the proposal will be a vast improvement.
 5. The applicant is a contract purchaser for the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing 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 Zoning Code § 10.333 application for the requested Section 3.11 column 3 #8 Special Permit Use and §§ 13.10 B (2), (7), (10) & (11) 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 Zoning Code § 10.333 application for the requested Section 3.11 Column 3 #8 Special Permit Use and §§ 13.10 B (2), (7), (10) & (11) variances was presented and moved by Mr. Mowerson, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

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: June 1, 2011

DECISION

EXTENSION OF NON-CONFORMING USE VARIANCE APPROVED WITH SPECIFIC CONDITIONS

To: Michael Johnson, P.E.(United Water)

ZBA # 11-41

Buck, Seifert & Jost, Inc.
65 Oak Street
P.O.Box 415
Norwood, New Jersey 07648

Date: June 1, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-41: Application of United Water for a variance from Chapter 43 (Zoning), Section 9.34 (Extension of a non-conforming use) to construct a 10' x 10' building addition to house a deaeration system. The property is located at 489 Blauvelt Road, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 69.14, Block 1, Lot 10; in the R-15 zoning district.

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

Michael Johnson, P.E., Consulting Engineer, John Moolick P.E., United Water, and John Dillon, Attorney, United Water, appeared and testified.

The following documents were presented:

1. Boundary and Topographic Survey dated 03/21/2011 signed and sealed by Richard M.Gardell, PLS.
2. Architectural plans dated 04/22/2011 signed and sealed by Michael; S. Johnson,P.E..
3. A picture submitted by Mr. DeLeo.
4. Two computer generated pictures submitted by United Water at the meeting.

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) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye.

John Moolick testified that the water in Pearl River has been watched and sometimes has a milky appearance; that the plan is to extend the existing brick building to enclose a membrane treatment system that will remove air from the water; that the addition will match the existing building; and will have a small light above the entrance door; that they were referred to the Zoning board for an expansion of the non-conforming use; that the water quality in Pearl River will be improved and that this property has a lot of screening.

Michael Johnson testified that the building expansion will be 9 ½ foot by 10 foot; that all of the piping will be inside of the structure; that an additional drywell will be added to the property; that they meet all of the yard requirements that the fence line is treed; that the Blauvelt Road entrance enters directly to the building; and that the property can be cleaned up.

John Dillon, Attorney, United Water, testified that they cannot screen the facility completely from the road because of Homeland Security; that public utilities could be a target for terrorists; that he is a Pearl River resident and that he handed his card out to the members of the public in the audience and will personally guarantee that the site will be cleaned up; that United Water is an environmental resource and the company wants to be a good neighbor and he apologized for falling short; further guaranteeing that the property will be cleaned and maintained.

Public Comment:

Vincent DeLeo, 494 Blauvelt Road, testified that he lives directly across the street; that the property is an eyesore; that the property was recently raped; that at least eight large trees were cut down; that the mess from that was never cleaned up; that he is not objecting to the building; that he has done his research and knows that the water will be boiled to get the air out of it and clear it up; that the water company makes enough money to landscape the property; that when it rains water just pours over the curb and runs over the sidewalk; that there is junk dumped on the property that should be cleaned up; an submitted a picture from the rear of his property of a berm with trees and suggested that the water do something similar on Blauvelt Road.

Frank Morns, 36 Champ Avenue, testified that he lives on the other side of the property and looks at overgrown weeds, dead wood, standing water; that the only portion of the property maintained by United Water is the portion inside the fenced in area; that the rest of the water company looks like a dumping ground; and he thanked the Board for visiting the property prior to the hearing.

Genevieve Coffey, 484 Blauvelt Road, testified that the property is an eyesore; that many trees were removed and made the mess more obvious; that the water company should plant a berm with spruce to screen the area; and that she had no objection to the building expansion.

Jerome Richardson, 501 Blauvelt Road, testified that he thinks it was Orange & Rockland that is responsible for the tree cutting; that he has spoke to United Water twice about the maintenance problems and nothing has been done; that the likes the woods and the rustic look of the property but it needs to be cleaned up and regularly maintained.

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 expansion of non-conforming use variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to clean up and maintain all of the property (not just the fenced area housing the building), and the water in Pearl River needs the deaeration system because the water is sometimes cloudy.
2. The requested expansion of non-conforming use variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has agreed to clean up and maintain all of the property (not just the fenced area housing the building), and the water in Pearl River needs the deaeration system because the water is sometimes cloudy.
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 deaeration system will not fit into the existing building and it is needed to clear the cloudy water that is present sometimes in Pearl River.
4. The requested expansion of non-conforming use variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The applicant has agreed to clean up and maintain all of the property (not just the fenced area housing the building), and the water in Pearl River needs the deaeration system because the water is sometimes cloudy.
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 expansion of a non-conforming use variance is **APPROVED WITH THE SPECIFIC CONDITIONS** that (1) **ALL** of the property owned by United Water at 489 Blauvelt Road (inside and outside the fenced in area) be cleaned of all rubbish, weeds, standing water, dead trees and branches, and items dumped by the public, **PRIOR** to the issuance of a building permit; (2) all of the property owned by United Water at 489 Blauvelt Road (inside and outside of the fenced in area) be kept cleaned and maintained to the standards set forth by the Property maintenance code (Chapter 24 C of the Town Code) requirements for the Town of Orangetown 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 expansion of non-conforming use variance with specific conditions was presented and moved by Mr. Mowerson, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

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: June 1, 2011

DECISION

FLOOR AREA RATIO, FRONT YARD, REAR YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Robin Foley

ZBA # 11-42

67 Grand Avenue

Date: June 1, 2011

Tappan, New York 10983

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-42: Application of Robin Foley for variances from Chapter 43 (Zoning), Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .30 proposed), 8 (Front Yard: 30' required, 15' existing, 11' proposed), 11 (Rear Yard: 35'

required, 15' existing and proposed), and 12 (Building Height: 15' permitted, 22' proposed) for an addition to an existing single-family residence. The premises are located at 67 Grand Avenue, Tappan New York and are identified on the Orangetown Tax Map as Section 77.10, Block 2, Lot 19; in the R-15 zoning district.

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

Robert Hoene, Architect, and Robin Foley appeared and testified.

The following documents were presented:

1. Site plan dated 04/14/2011 by Robert Hoene, Architect..
2. Architectural plans dated 04/19/2011 signed and sealed by Robert Hoene, Architect.

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

Robert Hoene, Architect, testified that the house is a ranch style house with a one-car garage; that they are proposing to add a partial second story and a one car garage; that the existing one car garage will partially be used for the staircase to the second floor; and the front yard will be slightly decreased because of the proposal for a small covered entry; that the property abuts the railroad right-of-way in the rear; that to the north the majority of the houses are two story house; that they tried to stay within the existing footprint as much as possible; and that the lot is undersized.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio, front yard, rear 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 floor area ratio, front yard, rear yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The lot is undersized and the only changes to the footprint that cause a variance is the covered entry in the front yard.
4. The requested floor area ratio, front yard, rear 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 floor area ratio, front yard, rear 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 floor area ratio, front yard, rear yard and building height variances was presented and moved by Ms. Albanese, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

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: June 1, 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

