

MINUTES
ZONING BOARD OF APPEALS
June 18, 2008

MEMBERS PRESENT: PATRICIA CASTELLI
 WILLIAM MOWERSON
 NANETTE ALBANESE
 DANIEL SULLIVAN

ABSENT: JOHN DOHERTY

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

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

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:

LIEROW
69.18 / 1 / 73; R-15 zone

POSTPONED ZBA#08-23

RIVERSIDE HOMES
78.18 / 1 / 47; R-80 zone

CONTINUED ZBA#08-52

NEW ITEMS:

MC LOUGHLIN
64.20 / 1 / 10; R-40 zone

SIDE YARD, ZBA#08-56
ACCESSORY STRUCTURE
§§ 5.227 & 5.153, AND FENCE
HEIGHT VARIANCES APPROVED
WITH CONDITIONS

KEAHON
68.16 / 5 / 19; RG zone

ACCESSORY STRUCTURE ZBA#08-57
§ 5.153 APPROVED WITH CONDITIONS

MC ALLISTER
68.20 / 3 / 52; RG zone

FRONT YARD, BUILDING ZBA#08-58
HEIGHT VARIANCES APPROVED

AELLEN
78.18 / 1 / 25; R-22 zone

FRONT YARD VARIANCE ZBA#08-59
APPROVED

DOMINICAN COLLEGE
74.06 / 3 / 3; R-40 zone

FRONT YARD, SIDE YARD ZBA#08-60
TOTAL SIDE YARD, AND
REAR YARD VARIANCES APPROVED

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: **RESOLVED**, to approve the action of the 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 application: Wyeth Site Plan-North Retention Basin, Middletown Road, Pearl River, N.Y., 68.08 / 1 / 1; Li

Zoning District; 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 10:45 P.M.

Dated: June 18, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
ASSESSOR
HIGHWAY DEPARTMENT
SUPERVISOR
TOWN BOARD MEMBERS
BUILDING INSPECTOR (Individual Decisions)
DEPT. of ENVIRONMENTAL MGMT. and ENGINEERING
Rockland County Planning

DECISION

SIDE YARD, ACCESSORY STRUCTURE §§ 5.227 & 5.153 AND § 5.226 FENCE HEIGHT VARIANCES APPROVED WITH CONDITION

To: Donald Brenner

ZBA # 08- 56

4 Independence Avenue
Tappan, New York 10983

Date: 6 / 18 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08- 56: Application of Paul and Elaine McLoughlin for variances from Chapter 43, Section 3.12, R-40 District, Group E, Columns 8 (Front Yard: 50' required, 19' proposed), ((Side Yard: 30' required, 21' proposed) and from Section 5.227 Accessory Structure: (Not permitted in front yard; front yard location proposed), Section 5.153: (Accessory Structure distance between buildings: 15' required, 11.5' proposed) and from Section 5.226 (Fence Height: 4 ½' fence permitted, 5' and 8' fence proposed) for the installation of a tennis court at a single-family residence. The premises are located at 280 Sickletown Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 64.20, Block 1, Lot 10.1; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 18, 2008 at which time the Board made the determination hereinafter set forth.

Paul McLoughlin and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Plot plan dated 4/1/08 signed and sealed by Jay A. Greenwell, PLS, LLC.

On advice of Mr. Michaels, Attorney 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) Regulations § 617.5 (C) 10 which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Doherty was absent.

Donald Brenner, Attorney, testified that the Planning Board permitted a subdivision of the property; that the existing tennis court is on lot #2 where the new house will eventually be constructed; that Mr. Mc Loughlin would like to build a new tennis court on lot #1 where the existing house is; that the old tennis court would be removed; that the new tennis court would be further west than the existing tennis court; that the 8' fence would be on either end of the tennis court with a 5' fence along the sides of the court; and that there are trees in the area of the proposed 8' fence.

Paul Mc Loughlin testified that he has owned the house for two years; that there are four people in his family; that he is planning on using the fill under the existing tennis court to construct the new court; that there are more trees in the area of the proposed eight foot section of the fence for the court; and that he agrees to remove the old tennis court at the time that the new one is being constructed.

Public Comment:

Warren Wang, 3 Sherwood Lane, testified that he lives across the street from the project; that he would like to know the position of the new tennis court and if the old tennis court is going to be removed; he also asked when the new house would be built.

Richard Gliemi, 6 Sherwood Lane asked what would happen to the old tennis court; and when it would be removed.

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.

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 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 variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to remove the old tennis court concurrent with constructing the new tennis court.
2. The requested front yard, side yard, accessory structure and fence height variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested front yard, side yard, accessory structure and fence height variances are

not substantial.

5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested front yard, side yard, accessory structure and fence height variances is APPROVED with the SPECIFIC CONDITION that the old tennis court be removed concurrent with the installation of the new tennis court; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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

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

DATED: June 18, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR –R. O.

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

DECISION

**ACCESSORY STRUCTURE DISTANCE VARIANCE APPROVED WITH
CONDITION**

To: John and Nancy Keahon

ZBA # 08-57

150 Hunt Avenue

Date: 6 / 18 / 08

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-57: Application of John and Nancy Keahon for a variance from Chapter 43, RG District, Section 5.153: (Accessory Structure distance between buildings: 15' required, 7.9' proposed) for a shed at an existing single-family residence. The premises are located at 150 Hunt Avenue, Pearl River New York, and are identified on the Orangetown Tax Map as Section 68.16, Block 5, Lot 19; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 18, 2008 at which time the Board made the determination hereinafter set forth.

John and Nancy Keahon appeared and testified.

The following documents were presented:

1. Site plan showing the shed.

On advice of Mr. Michaels, Attorney to the Zoning Board of Appeals, Mr. Mower son moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA) Regulations § 617.5 (C) 10 which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Doherty was absent.

John Keahon testified that they recently did a 27' x 22' addition to the rear of the house; that they found out that the shed was not permitted in its present location when the

inspector came out to inspect the addition; that the shed was there when they purchased the property 22 years ago; that they would like to keep it in its present location; that the shed is 14' x 10' and is used to store garden and lawn equipment and his motorcycle; that there is a 24" Maple tree and a 2' stone wall next to the shed so it would be very difficult to move; that if he is permitted to keep the shed he plans to re-side and re-shingle it to match the house.

Nancy Keahon testified that the wall goes east to west over half the property and also drops down by two feet; and that there are four people in the family.

Public Comment:

No public comment.

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

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

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 the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested accessory structure distance variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to side and shingle the shed to match the house.
2. The requested accessory structure distance variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance, because a mature tree blocks the area into which the shed could have been moved to avoid the variance.
4. The requested accessory structure distance variance is not substantial.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested accessory structure distance variance is **APPROVED** with the **SPECIFIC CONDITION** that the shed be sided and shingled to match the house; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested accessory structure distance variance was presented and moved by Mr. Mowerson, seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Ms. Albanese, aye. Mr. Doherty was absent.

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

DATED: June 18, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -B.vW.

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

DECISION

FRONT YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: James Mc Allister

ZBA # 08-58

122 South John Street
Pearl River, New York 10965

Date: 6 / 18 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-58: Application of James Mc Allister for variances from Chapter 43, Section 3.12, RG District, Group Q, Columns 8 (Front Yard: 25' required, 5.7' existing and 11' proposed) and 12 (Building Height: 14'8" permitted, 21' existing and 22'6" proposed), for an addition to an existing single-family residence. The premises are located at 122 South John Street, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.20, Block 3, Lot 52; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 18, 2008 at which time the Board made the determination hereinafter set forth.

James Mc Allister appeared and testified.

The following documents were presented:

1. Architectural plans signed and sealed by Robert Murphy, Architect.
2. Bulk table signed and sealed by Robert Murphy, Architect.
3. Survey signed and sealed by Robert Murphy, Architect.

On advice of Mr. Michaels, Attorney 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) Regulations § 617.5 (C) (9),(12) &/or (13) which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Doherty was absent.

James Mc Allister testified that he would like to construct an addition to the side of his house; that he has owned the house since 1991; that he has been resident of Orangetown since 1969; that he is proposing a two story addition with a family room and laundry room on the first level and a bedroom above it; that presently a person needs to go outside and enter the basement to do laundry; that the house was built in 1918 and the proposed addition is the exact dimension of the existing house; that the roof line will remain the same but the property grade changes on that side of the house which causes the building height 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.

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 the benefits to the applicant if

the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested front yard and building height variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed addition is keeping the same dimension of the existing house and the roof line is not changing, however the property grade changes on the side of the house of the proposed addition.
2. The requested front yard and building height variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested front yard and building height variances are not substantial.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested front yard and building height variances 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 and building height variances was presented and moved by Mr. Sullivan , seconded by Ms. Albanese, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Ms. Albanese, aye. Mr. Doherty was absent.

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

DATED: June 18, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR –J.P.

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

DECISION

FRONT YARD VARIANCE APPROVED

To: Cole Ruby (Aellen)

ZBA # 08-59

725 Oak Tree Road
Palisades, New York 10964

Date: 6 / 18 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-59: Application of Richard Aellen and Marty Nealon for a variance from Chapter 43, R-22 District, Section 3.12, Group I, Column 8 (Front Yard: 40’ required, 5’ existing, 17.9’ proposed) for the addition of a covered entry at an existing single-family residence. The premises are located at 88 Washington Spring Road, Palisades, New York, and are identified on the Orangetown Tax Map as Section 78.18, Block 1, Lot 25; R-22 zone

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 18, 2008 at which time the Board made the determination hereinafter set forth.

Cole Ruby and Henry Ottley, builders, appeared and testified.

The following documents were presented:

1. Architectural plans dated 5/19/08 signed and sealed by Linda Menze, Architect.

On advice of Mr. Michaels, Attorney 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) Regulations §617.5 (C) (9),(12), &/or (13) which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Doherty was absent.

Henry Ottley explained that the owners of the home were away in Florida; that they would like a front yard variance to accommodate a portico over the front entrance to the house; and that the previous owner was before the Board for the greenhouse.

Cole Ruby testified that they have been renovating the interior of the house and the owners have requested that they add a 5' x 9' portico over the front door; that the portico is set back 17.9' and the greenhouse is set back 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.

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 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 would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The portico addition is in the front of the house and is not extending beyond the existing non-conforming front yard.
2. The requested front yard variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.
4. The requested front yard variance is not substantial.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

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

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

DATED: June 18, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
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OBZPAE
BUILDING INSPECTOR -B.vw.

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

DECISION

SIDE YARD AND REAR YARD VARIANCES APPROVED

To: Michael Dempsey

ZBA # 08- 60

470 Western Highway
Orangeburg, New York 10962

Date: 6 / 18 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-60: Application of Dominican College for variances from Chapter 43, Section 3.12, R-40 District, Group H, Columns 8 (Front Yard: 100' required, 83' proposed), 9 (Side Yard: 100' required, 25' existing on north side and 60' proposed for the south side), 10 (Total Side Yard: 200' required, 85' proposed) and 11 (Rear Yard; 100' required, 81' proposed) for an expansion of the kitchen and dining hall. The premises are located at 470 Western Highway, Orangeburg, New York, and are identified on the Orangetown Tax Map as Section 74.06, Block 3, Lot 3; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 18, 2008 at which time the Board made the determination hereinafter set forth.

Michael Dempsey, Sister Kathleen and Brian Quinn, Attorney, appeared and testified.

The following documents were presented:

1. Site plan dated 2/18/08 signed and sealed by Joseph Corless, P.L.S.
2. A letter dated June 10, 2008 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
3. A letter dated June 9, 2008 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
4. A letter dated June 13, 2008 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
5. Planning board Decision #08-24 dated April 23, 2008.
6. A memorandum from John Giardiello dated April 23, 2008.

The Board has consented to the Planning Board as Lead Agency for SEQRA review purposes with respect to this application on March 5, 2008. The Planning Board declared itself Lead Agency on April 23, 2008 in PB#08-24 and made a Negative Declaration on that date.

Brian Quinn, Attorney testified that the college would like to add a 3,000 sq. ft. addition to the dining hall/ kitchen; that 800 sq. ft. are proposed to be added to the kitchen and 2,200 sq. ft. are proposed to be added to the existing dining hall; that five variances are being requested to accomplish this addition; that the measurements are to this property line but the surrounding properties are also owned by the college; that the Planning Board granted a preliminary approval and negative declaration for SEQRA; and that the variances if granted would not cause an undesirable change in the character of neighborhood or be a detriment or nearby properties.

Sister Kathleen testified that the dining hall expansion is necessary because of increased enrollment.

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.

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 the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested front yard, side yard, total side yard and rear yard variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The college property has been subdivided for purposes of construction financing and the property surrounding the subject property is owned by the college.
2. The requested front yard, side yard, total side yard and rear yard variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested front yard, side yard, total side yard and rear yard variances are not substantial.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variances.

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

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

DATED: June 18, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -L.P.

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

