

MINUTES
ZONING BOARD OF APPEALS
June 3, 2009

MEMBERS PRESENT: DANIEL SULLIVAN
NANETTE ALBANESE
WILLIAM MOWERSON
JOAN SALOMON

ABSENT: PATRICIA CASTELLI

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

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

OLLEY
69.09 / 3 / 27; R-15 zone

SIDE YARD VARIANCE APPROVED ZBA#09-27

NEW ITEMS:

SUTTON
70.05 / 1 / 6; R-40 zone

TOTAL SIDE YARD, AND BUILDING HEIGHT VARIANCES APPROVED WITH CONDITIONS ZBA#09-30

AVILA
70.06 / 1 / 56; R-40 zone

FRONT YARD FENCE HEIGHT VARIANCE APPROVED WITH CONDITIONS ZBA#09-31

TIFFANY
70.14 / 3 / 38; R-15 zone

FRONT YARD VARIANCE APPROVED ZBA#09-32

KENNEDY
66.17 / 1 / 11; R-22 zone

SIDE YARD VARIANCE APPROVED ZBA#09-33

LIGGIO
69.18 / 2 / 19; R-15 zone

FLOOR AREA RATIO, FRONT YARD, SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED ZBA#09-34

ART STUDENTS LEAGUE
74.16 / 1 / 9 & 75.13 / 1 / 1; R-40 zone

POSTPONED ZBA#09-35

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 9:30 P.M.

Dated: June 3, 2009

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

UNDERSIZED LOT SIDE YARD VARIANCE APPROVED

To: Mary Olley

ZBA # 09-27

63 Meadows Street
Pearl River, New York 10965

Date: 6 / 3 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-27: Application of Mary Olley for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown,, R-15 District, Section 3.12, Group M, Section 5.2 exceptions 5.21(c) (Side Yard: 15' required, 19' existing, 11.6' proposed) for a deck at an existing single-family residence. The premises are located at 63 Meadows Street, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.09, Block 3, Lot 27; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 3, 2009 at which time the Board made the determination hereinafter set forth.

John and Mary Olley appeared and testified.

The following documents were presented:

1. Copy of survey with proposed deck drawn..

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

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

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

Mary Olley testified that the kids want her to have the deck because they say she needs to go outside more often.

John Olley testified that the existing platform is 5' x 3' and the door opens the wrong way; that they are proposing the deck to make it safer for his mother; that the door of the kitchen opens at the side of the house; that there is no door in the rear of the house; that the proposed deck would be 2 ½' off the ground and 8' x 12'; that it would give his mother a place to sit outside and make it easier and safer to take out the trash.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has testified to the need for a wider deck at the entrance to the house for safety reasons.
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.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance. The applicant has testified to the need for a wider deck at the entrance to the house for safety reasons.
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.
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**; 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 Ms. Salomon, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; and Ms. Castelli, 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: May 20, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

DECISION

TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Stephen Sutton

ZBA # 09-30

737 Western Highway
Blauvelt, New York 10913

Date: 6/3/09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-30: Application of Stephen Sutton for variances from Chapter 43, (Zoning) of the Code of the Town of Orangetown Section 3.12, R-40 District, Group E, Columns 9 (Total Side Yard: 80' required, 60' existing non-conforming) and 12 (Building Height: 20' permitted, 29' proposed) (Section 5.21(a) Undersized Lots Applies) for an addition to an existing single-family residence. The premises is located at 737 Western Highway, Tappan, New York, and are identified on the Orangetown Tax Map as Section 70.05, Block 1, Lot 6; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 3, 2009 at which time the Board made the determination hereinafter set forth.

Stephen and Karen Sutton appeared and testified.

The following documents were presented:

1. Architectural plans dated 3/29/09 signed or sealed by Robert Murphy, Architect.
2. Site plan signed and sealed by Robert Murphy, Architect, based on survey by William Yuda dated August 18, 1976 L.S.
3. A letter dated June 2, 2009 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
4. A letter dated May 28, 2009 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
5. A letter dated May 5, 2009 from the County of Rockland Department of Health signed by Scott Mc Kane, P.E., Senior Public Health Engineer.
6. A letter dated April 30, 2009 from the County of Rockland Drainage Agency signed by Edward F. Devine, Executive 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. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Albanese, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Sullivan; aye; and Mr. Mowerson, aye.

Stephen Sutton testified that the house is a small brick ranch; that there are three existing bedrooms; that they are planning on making one of the existing bedrooms part of the kitchen; that the existing master bedroom would remain a guest bedroom for their parents when they visit; that the other existing bedroom would be used as an office since they are both educators; that the addition would add three bedroom on a second floor of the house; that he has lived in the house since he was four years old; that he recently purchased the house from his mother; that there is a retaining wall on the right side of the garage; that there will be no change in the footprint of the house; and that there are three steps down into the backyard from the right side of the garage.

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 total side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The applicant will be required to upgrade the septic tank and disposal field to meet current State and/or County Health Department standards. Soil test must be conducted in the presence of a representative of the Department of Health and engineered plans shall be submitted to the Department of Health and approved prior to the issuance of a building permit.
3. Stone padding and adequate soil and erosion control measures must be utilized to prevent mud and debris from entering into the County Highway during construction.
4. A work permit from the Rockland County Highway Department is required.
5. The requested total side yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
6. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. Similar additions have been constructed in the area.
7. The requested floor area ratio, side yard, and building height variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
8. 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 total side yard and building height variances are APPROVED with the SPECIFIC CONDITION that the applicant comply with the letters from County of Rockland Department of Highways dated June 2, 2000 and County of Rockland Department of Health dated May 5, 2009; 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 total side yard and building height variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, 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 3, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY

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

DECISION

**FRONT YARD FENCE HEIGHT VARIANCE APPROVED WITH
CONDITIONS**

To: Cesar and Allyson Avila

ZBA # 09-31

1 Sgt. James Parker Drive
Blauvelt, New York 10913

Date: 6/ 3 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-31: Application of Cesar and Allyson Avila for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown, R-40 District, Section 5.226 (Front Yard Fence: 4 ½' permitted, 6' proposed) for the installation of a fence at an existing single-family residence. The property is located at 1 Sgt. James Parker Drive, Blauvelt New York, and are identified on the Orangetown Tax Map as Section 70.06, Block 1, Lot 56; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 3, 2009 at which time the Board made the determination hereinafter set forth.

Cesar and Allyson Avila appeared and testified.

The following documents were presented:

1. Survey dated June 14, 1990 with highlighted area of the proposed fence to be installed.
2. An 8 ½"x 12" picture of the proposed fence.
3. A letter dated June 2, 2009 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
4. A letter dated May 28, 2009 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.

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

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

Allyson Avila testified that they are proposing the fence along 120' side yard that runs along the road, which makes it a front yard; that they will be fencing the entire back yard but will not be obstructing Sgt. Parker or Greenbush Road; that they are proposing a white vinyl privacy fence; that they purchased the house two years ago; that the pool in alarmed; that Greenbush Road is elevated and there is a clear view into the back yard; that the six foot fence will provide a little privacy; that they would like to add shrubbery outside the fence eventually; that they would only add the shrubbery with permission from the Rockland County Highway Department; and that they will abide with the comments of the County Highway letter dated June 2, 2009.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard fence height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar fences have been constructed in the area and the applicant has agreed to comply with the comments of the June 2, 2009 letter from the County of Rockland Department of Highways.
2. The fence shall be installed within the property lines and not within the right-of-way nor five foot easement along Greenbush Road. At one point that would be a minimum of 17 feet from the edge of pavement.
3. A Rockland County Highway Department Work Permit will be required for the installation of the fence along the county roadway, in addition to any permits required by the local municipality and various involved governmental agencies..
4. The requested front yard fence height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar fences have been constructed in the area and the applicant has agreed to comply with the comments of the June 2, 2009 letter from the County of Rockland Department of Highways.
5. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
6. The requested front yard fence height variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
7. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a six foot fence in a front yard, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested front yard fence height variance are **APPROVED** with the **SPECIFIC CONDITION** that the applicant comply with all of the conditions set forth in letter dated June 2, 2009 from the County of

Rockland Department of Highways; 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 fence height variance was presented and moved by Ms. Albanese, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, 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 3, 2009

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 –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: Michael and Patrice Tiffany

ZBA # 09-32

63 McKenna Street
Blauvelt, New York 10913

Date: 6/ 3 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-32: Application of Michael and Patrice Tiffany for a variance from Chapter 43, (Zoning) of the Code of the Town of Orangetown, R-15 District, Section 3.12, Group M, Column 8 (Front Yard: 30' required, 24' proposed) for a front porch at an existing single-family residence. The premises are located at 63 Mc Kenna, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.14, Block 3, Lot 38; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 3, 2009 at which time the Board made the determination hereinafter set forth.

Michael and Patrice Tiffany appeared and testified.

The following documents were presented:

1. Site plan and front porch plans.

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

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

Michael Tiffany testified that they would like to add a 17' x 6' front porch; that they enjoy the street and the neighbors and would like a nice sitting area in the front of the house; that there are a lot of children and grandchildren on the block; that they purchased their house in 1977; that there are three people left in the house and many grandchildren that visit; and that there is an existing 6'x4' shed on the property.

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

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

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested front yard variance was presented and moved by Ms. Castelli, seconded by Ms. Salomon, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, 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 3, 2009

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 -M.M.

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

DECISION

SIDE YARD (UNDERSIZED LOT) VARIANCE APPROVED

To: Steve and Lori Kennedy

ZBA #09-33

23 Shadyside Avenue

Date: 6/ 3 / 09

Upper Grandview, New York

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-33: Application of Steve and Loni Kennedy for variances from Chapter 43, (Zoning) of the Code of the Town of Orangetown, Section 5.21 B (Undersized Lot Side Yard: 20' required, 18.1' existing, 19.1 proposed) for an addition to an existing single-family residence. The premises is located at 23 Shadyside Avenue, Upper Grandview, New York, and are identified on the Orangetown Tax Map as Section 66.17, Block 1, Lot 11; R-22 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 3, 2009 at which time the Board made the determination hereinafter set forth.

Robert Silarski, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 3/17/09 (7 pages) not signed or sealed by Robert Silarski, Architect.
2. A letter dated May 4, 2009 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
3. A letter dated May 27, 2009 from the County of Rockland Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
4. A letter dated May 22, 2009 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
5. A letter dated April 29, 2009 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.

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

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

Robert Silarski, Architect, testified that the proposed addition is within the existing non-conforming lines of the house; that there are no objections from neighbors or agencies; that the Kennedy's have owned the house for twenty years; that the screened porch is in bad disrepair and the family does not use it; that they decided to make it living space which they sorely need; that the existing house is approximately 1,600 sq. ft.; that there are three people living in the house; that no trees would be removed during the construction; and the drainage system runs to storm drains in Shadyside.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. Similar additions have been constructed in the area.
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.
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; 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. Albanese, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, 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 3, 2009

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 -R.O.

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

DECISION

**FLOOR AREA RATIO, FRONT YARD, SIDE YARD AND BUILDING HEIGHT
VARIANCES APPROVED**

To: Louis Liggio

ZBA # 09-34

501 Gilbert Avenue

Date: 6/3/09

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-34: Application of Louis Liggio for variances from Chapter 43, (Zoning) of the Code of the Town of Orangetown Section 3.12, R-15 District, Group M, Columns 4(Floor Area ratio: .20 permitted, .25 proposed), 8 (Front Yard: 30' required, 17.2' proposed), 9 (Side Yard: 20' required, 17' proposed and 11 (Building Height: 17' permitted, 26.11' proposed) for a new single-family residence. The premises is located

at 501 Gilbert Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.18, Block 2, Lot 19; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 3, 2009 at which time the Board made the determination hereinafter set forth.

Louis Liggio and Ronald Krumm appeared and testified.

The following documents were presented:

1. Architectural plans dated 4 / 24 /09 (6 pages) with the latest revision date of 5/4/09 signed or sealed by Richard Gale Williams, Architect..
2. Survey dated May 4, 2009 signed and sealed by Anthony Celentano, L.S.
3. A letter dated May 28, 2009 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
4. A letter dated March 11, 2009 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
5. Tax map 69.18.
6. Zoning Board of Appeals Decisions #02-52 dated 7/2/02; #03-41 dated 6/4/03; #01-39 dated 5/2/01; #04-06 dated 1/21/04; #06-23 dated 3/1/06; #03-105 dated 10/15/03.
7. Two letters from abutting property owners in support of the application.

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

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

Louis Liggio testified that he and his wife are both educators; that the existing house is a 1700 sq. ft. Cape Cod; that they have two boys and would like a larger family; that the proposal before the Board is for the most energy efficient house that they can build that meets all of the families needs; that it is a modular house with four bedrooms; that the existing Cape has three bedrooms; that this is the smallest Colonial style house that the modular company manufactures; that if they tried to shrink the footprint they would be back to a Cape Cod style house; that this house is approximately 3,000 sq. ft.; that this

Board granted variances in the neighborhood that are similar to what he is requesting; that at 538 Gilbert Avenue a .26 floor area ratio and side yard and building height variances were granted; that the Duffy's, two houses from his got a .217 floor area ratio variance; that the Relihan's got a .254 floor area ratio and a 12/45 front yard; that the Shneider's, directly behind him got a .215 floor area ratio; that 57 Mapleshade got a .25 floor area ratio, 14' side yard, 27.25' total side yard and a building height; that 86 Oldert got a .232 floor area ratio, that 33 Jeannes Place got a .22 floor area ratio; that the corner of his property fronts onto a paper street that is unimproved and that is the area that requires the front yard variance; that he picked out the smallest two car garage that he company offered; that it is only 22' wide and all of the others were 24' and 26' wide; and that there really is no way to reduce the house without starting all over again.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio, front yard, side yard, and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar sized houses have been constructed in the area as evidenced by the applicant's documented research.
2. The requested floor area ratio, front yard, side yard, and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The new construction will be energy efficient which will improve the environmental conditions 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. Similar sized houses have been constructed in the area as evidenced by the applicant's documented research.
4. The requested floor area ratio, front yard, side yard, and building height variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
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, side yard, and building height variances are **APPROVED** and modification #2 of the Rockland County Department of Planning letter dated May 28, 2009 is overridden; 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, side yard, and building height variances was presented and moved by Ms. Salomon, seconded by Mr. Sullivan, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, 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 3, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

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