

MINUTES
ZONING BOARD OF APPEALS
March 19, 2008

MEMBERS PRESENT: PATRICIA CASTELLI
WILLIAM MOWERSON
NANETTE ALBANESE
JOHN DOHERTY

ABSENT: DANIEL SULLIVAN

ALSO PRESENT: Robert Magrino, 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:

SMK RELD POSTPONED ZBA#08-12
69.10 / 2 / 71; R-15 zone

MACHKIN SIDE YARD ZBA#08-18
74.13 / 3 / 91; RG zone
AND TOTAL SIDE
YARD VARIANCES APPROVED

NEW ITEMS:

LA VALLE ACCESSORY STRUCTURE ZBA#08-20
77.05 / 3 / 53; R-15 zone
DISTANCE VARIANCE APPROVED

WYSOCKI SIDE YARD, BUILDING ZBA#08-21
77.10 / 3 / 89; R-15 zone
HEIGHT VARIANCES APPROVED

SMITH SIDE YARD AND ZBA#08-22
77.11 / 2 / 43; R-15 zone
REAR YARD VARIANCES
APPROVED AS MODIFIED

LIEROW CONTINUED ZBA#08-23
69.18 / 1 / 73; R-15 zone

VALENTINE COOK BUILDING POSTPONED ZBA#08-24
74.07 / 1 / 13; LIO zone

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following applications: Doller Subdivision Lot #3; 154 Kings Highway, Orangeburg, New York , 74.16/3/3.3; R-40 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

The foregoing resolution was presented and moved by Mr. Mowerson seconded by Mr.

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

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 9:00 P.M.

Dated: March 19, 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 AND TOTAL SIDE YARD VARIANCES APPROVED

To: Ivan and Olga Machkin
36 Henry Street
Orangeburg, New York 10962

ZBA # 08-18
Date: 3/ 19/ 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-18 : Application of Ivan and Olga Machkin for variances from Chapter 43, Section 3.12, RG District, Group Q, Columns 9 (Side Yard: 10' required, 8" proposed and existing) and 10 (Total Side Yard: 30' required, 24.3' proposed and existing) for an existing balcony at an existing single-family residence. The premises is located at 36 Henry Street, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 74.13, Block 3, Lot 91; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 19, 2008 at which time the Board made the determination hereinafter set forth.

Ivan and Olga Machkin appeared and testified.

The following documents were presented:

1. Plot plan dated 1/7/02 by Jane Slavin, R.A..
2. Two pages of hand drawings of the deck.

On advice of Mr. Magrino, Attorney to the Zoning Board of Appeals, Mr. Mowerson

moved for a Board determination that the foregoing application is a Type II action under the State Environmental Quality Review Act (SEQRA) Regulations which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Doherty, aye; Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Sullivan was absent.

Olga Machkin testified that the deck was built one year ago by her husband, Ivan; that the building permit is pending; that there are no windows in their master bedroom on that side of the house; that her husband added the door and deck; that he is a handy man and built the deck himself; that there is town owned property adjacent to the house on the side of the deck; that the deck is 8' x 12'; and that the closest house on that side of the property is between 200 and 250 feet away.

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 side yard and total side yard variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The deck has been constructed on the side of the house facing vacant land owned by the Town of Orangetown.
2. The requested side yard and total side 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 side yard and total side 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 variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested side yard and total side yard variances 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 and total side yard variances was presented and moved by Ms. Albanese, seconded by Ms. Albanese, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Ms. Albanese, aye. Mr. Sullivan 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: March 19, 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

ACCESSORY STRUCTURE DISTANCE VARIANCE APPROVED

To: Stanley LaValle
149 Liberty Road
Tappan, New York 10983

ZBA # 08-20
Date: 3/ 19/ 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-20: Application of Stanley LaValle for variances from Chapter 43, Section 5.153, R-15 District, (Accessory Structure Distance: 15' required, 3' existing) for an existing cabana/shed at a single-family residence. The premises is located at 149 Liberty Road, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.05, Block 3, Lot 53; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 19, 2008 at which time the Board made the determination hereinafter set forth.

Stanley LaValle appeared and testified.

The following documents were presented:

1. Architectural plans labeled LaValle House Deck and Cabana Additions, with site plan dated December 26, 2007 signed and sealed by John Deans, Architect.

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

Stanley LaValle testified that he built the cabana in 1974; that he came to the Building Department and was told that he did not need a permit; that he was told that if the shed was under 100 sq. ft. he did not need a permit and the cabana is only 8' x 10'; that he found out recently that he constructed it too close to the house and needs a variance for the distance; that he has had an electric inspection from the underwriters and Mr. John Deans certified the plans; that he wants to legalize the cabana because he wants to sell the house because it is too much to take care of now.

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 out weigh 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 shed has existed in this location since 1974 and similar conditions exist on other lots in the area.
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.
4. The requested accessory structure distance variance although substantial has existed since 1974 without incidence.
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 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 accessory structure distance variance was presented and moved by Ms. Albanese , seconded by Ms. Castelli, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Ms. Albanese, aye. Mr. Sullivan 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: March 19, 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

SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Mark Wysocki
185 Old Tappan Road
Tappan, New York 10983

ZBA # 08-21
Date: 3/ 19/ 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08- 21: Application of Mark Wysocki for variances from Chapter 43, Section 3.12, R-15 District, Group M, Columns 9 (Side Yard: 20’ required, 3.5’ existing and proposed), 12 (Building Height: 3.5’ permitted, 30.488’ proposed) for the addition at an existing single-family residence. The premises are located at 185 Old Tappan Road, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.10, Block 3, Lot 89; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 19, 2008 at which time the Board made the determination hereinafter set forth.

Mark Wysocki appeared and testified.

The following documents were presented:

2. Architectural plans labeled “Proposed Addition for residence at 185 Old Tappan Road” dated August 1, 2007, signed and sealed by Leon Baron, Architect (13 pages).
3. Site Plan signed and sealed by Leon Baron, Architect.
4. A letter dated February 21, 2008 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.

5. A letter from the County of Rockland Department of Highways dated February 7, 2008 signed by Joseph Arena, Principal Engineering Technician.
6. A letter dated February 13, 2008 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
7. A letter dated February 6, 2008 from the County of Rockland Drainage Agency signed by Edward F. Devine, Executive Director.

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 under the State Environmental Quality Review Act (SEQRA) Regulations which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Doherty, aye; Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Sullivan was absent.

Mark Wysocki testified that his property is divided between New York and New Jersey; that the New Jersey property is landlocked; that the house is situated close to the Jersey line and this is what causes the need for the variances; that he has owned the house for two years; that there are four people in the family; that he shares a driveway; that he is proposing to add a second floor and expand into the rear by six feet; that the house does not have a basement; that there is a little less than three acres of property; that the original house was built in 1955; and if it were all on one lot he would not need a 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 side yard and building height variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is divided between New Jersey and New York and this condition is the reason the application requires variances.
2. The requested side 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 side yard and building height variances although substantial is caused by the applicant owning property in New Jersey and New York. The New Jersey lot is landlocked.

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 side 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 side yard and building height variance was presented and moved by Mr. Doherty, seconded by Ms. Castelli, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Ms. Albanese, aye. Mr. Sullivan 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: March 19, 2008

TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR –B.v.W.

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 AS MODIFIED

To: John and Katrina Smith
9 Carol Lane
Tappan, New York 10983

ZBA # 08-22
Date: 3/ 19/ 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08- 22: Application of John And Katrina Smith for variances from Chapter 43, Section 3.12, R-15 District, Group M, Column 9 (Side Yard: 20' required, 3' proposed) and from Section 5.227 (Rear Yard: 20' required, 6' proposed) for the installation of an above-ground pool at an existing single-family residence. The premises are located at 9 Carol Lane, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.11, Block 2, Lot 43; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 5, 2008 at which time the Board made the determination hereinafter set forth.

John Smith appeared and testified.

The following documents were presented:

8. Two Copies of survey dated 5/28/1981 by Joseph Haler, P.L.S., with the pool drawn on it.

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 under the State Environmental Quality Review Act (SEQRA) Regulations which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Doherty, aye; Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Sullivan was absent.

John Smith testified that he re-measured after he submitted the plan to the building inspector and the side yard can be 6' and the rear yard can be 10'; that the proposed pool is 18' x 33' oval above-ground pool; that he has an extended family living in the area that will also be using the pool; that his sister-in-law and in-laws live in the neighborhood; that he needs the pool to train for triathlons; that the yard is oddly shaped and there isn't another place to put the pool; and that the house that the pool will be closest to also has a pool and there is a fence and row of arborvitae between the properties.

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 side yard and rear yard variances as modified to 6' and 10' respectively would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. There is sufficient screening because of the existing fence and row of arborvitae between the properties on the side of the house where the proposed pool would be installed to alleviate any undesirable change in character to the neighborhood.
2. The requested side yard and rear yard variances as modified to 6' and 10' respectively 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 side yard and rear yard variances as modified to 6' and 10' respectively although substantial shall not have an adverse effect on the neighborhood.
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 side yard and rear yard variances as modified to 6' and 10' respectively 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 and rear yard variances as modified to 6' and 10' respectively was presented and moved by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Ms. Albanese, aye. Mr. Sullivan 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: March 19, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

