

MINUTES
ZONING BOARD OF APPEALS
March 17, 2010

MEMBERS PRESENT: PATRICIA CASTELLI
 JOAN SALOMON
 NANETTE ALBANESE

ABSENT: WILLIAM MOWERSON
 DANIEL SULLIVAN

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

This meeting was called to order at 7: 00 P.M. by Acting Chairperson Ms. Castelli.

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

POSTPONED ITEM:

MIGGE 77.11 / 3 / 70; CS zone	POSTPONED	ZBA#10-17
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NEW ITEMS:

SCHAEFER 69.15 / 2 / 14; R-15 zone	APPROVED	ZBA#10-19
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MAHONEY 69.05 / 3 / 33; R-15 zone	APPROVED	ZBA#10-20
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CRESTRON ELECTRONICS 77.05 / 1 / 36 & 37; LIO zone	POSTPONED	ZBA #10-21
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CRESTRON ELECTRONICS PERFORMANCE STANDARDS 77.05 / 1 / 36 & 37; LIO zone	POSTPONED	ZBA #10-22
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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.

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Chairman executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for SEQRA coordinated environmental review of actions pursuant to the following applications: Tappan Golf Range, Amendment to Approved Site Plan Area B, Building for Batting Cages and Golf

Club Shop, 118 Route 303, Tappan, New York 74.19 / 1 / 1; LI district; Tappan Golf Range, Area A, Go Kart Area, 118 Route 303, Tappan, 74.19 / 1 / 1; LI zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:20 P.M.

Dated: March 17, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DECISION

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

To: Michael Schaefer

ZBA # 10-19

98 Harding Street

Date: March 17, 2010

Blauvelt, New York 10913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-19: Application of Michael Schaefer for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, R-15 District, Group M, Section 3.12, Columns 9 (Side Yard: 20' required, 13' proposed), 10 (Total Side Yard: 50' required, 38.7' proposed) and 12 (Building Height: 13' permitted, 18.5' proposed) for the addition of an attached garage to an existing single-family residence. The premises are located at 98 Harding Street, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 69.15, Block 2, Lot 14; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 17, 2010 at which time the Board made the determination hereinafter set forth.

Michael Schaefer appeared and testified.

The following documents were presented:

1. Architectural plans not dated (1 page) signed or sealed by Robert Hoene, Architect.

Ms. Castelli 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, Ms. Castelli moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and

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

Michael Schaefer testified that his house has a garage under it with retaining walls that are crumbling; that he has had water in the garage that started to travel into the basement; that he has closed off the garage area with cinder blocks to stop this problem; that he is requesting to add a two car garage on the side of the house with it set back 5 feet from the existing front of the house for aesthetic reasons; that this change will also eliminate some of the stairs into the house which is good; that the entrance to the house will be more aesthetically pleasing.

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.

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

FINDINGS OF FACT AND CONCLUSIONS:

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

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

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

General Conditions:

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

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

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

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

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

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

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

DATED: March 17, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

FRONT YARD AND FRONT YARD FENCE HEIGHT VARIANCES APPROVED

To: Kevin and Jane Mahoney

ZBA #10-20

142 Lombardi Road
Pearl River, New York 10965

Date: March 17, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-20: Application of Kevin and Jane Mahoney for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, R-15 District, Group M, Column 8 (Front Yard: 30' required, 26' proposed) for an addition and from Section 5.226 (Fence Height in Front Yard: 4 ½' permitted, 6' existing) at an existing single-family residence. The premises is located at 142 Lombardi Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.05, Block 3, Lot 33; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 17, 2010 at which time the Board made the determination hereinafter set forth.

Kevin and Jane Mahoney appeared and testified.

The following documents were presented:

1. Architectural plans dated 12/21/09 (3 pages) signed or sealed by Harold J. Goldstein, Architect.
2. Survey dated February 5, 2010 signed by Edward T. Gannon, L.S.

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

Jane Mahoney testified that they are proposing an expansion to the kitchen into the existing garage and adding a garage in front of the existing garage that they would like to add a master bedroom and bath above the proposed new garage; that they installed the pool in 2002 and the fence was installed at that time; that the kids were young at the time and they installed a 4 ½' fence around the pool and a six-foot fence on the corner side along the road; that the fence was shown on the plan that was submitted to the building department for the pool; that they did not know that it was illegal to have a six-foot fence; that they were told about this when they applied for this building permit; and that they would like to keep the six-foot fence for safety and privacy reasons.

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.

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

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

General Conditions:

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

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

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

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

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

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

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

DATED: March 17, 2010

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

