

MINUTES  
ZONING BOARD OF APPEALS  
March 18, 2009

MEMBERS PRESENT: PATRICIA CASTELLI  
DANIEL SULLIVAN  
NANETTE ALBANESE

ABSENT: WILLIAM MOWERSON

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

CONTINUED ITEMS:

BELLHOUSE 72.08 / 1 / 49; RG zone	APPROVED AS MODIFIED	ZBA#09-13
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ART STUDENTS LEAGUE 75.13 / 1 / 1 & 74.16 / 1 / 9; R-40 zone	POSTPONED	ZBA#09-09
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NEW ITEMS:

RESTREPO 77.06 / 1 / 29.18; R-15 zone	APPROVED WITH CONDITIONS	ZBA#09-15
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JP MORGAN CHASE BANK 74.11 / 2 / 51 & 52; CC zone	POSTPONED	ZBA#09-16
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INERTIA SWITCH INC. 74.07 / 1 / 14; LIO zone	POSTPONED	ZBA#09-17
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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.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:25 P.M.

Dated: March 18, 2009

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

DISTRIBUTION:

Deborah Arbolino  
Administrative Aide

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

### **FLOOR AREA RATIO, FRONT YARD, SIDE YARD, TOTAL SIDE YARD, BUILDING HEIGHT, ACCESSORY STRUCTURE DISTANCE, AND ACCESSORY STRUCTURE SIDE YARD DISTANCE VARIANCES APPROVED AS MODIFIED**

To: Peter Bellhouse

ZBA # 09-13

190 Ridge Street

Date: 3/18 / 09

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-13: Application of Peter Bellhouse for variances from Chapter 43, RG District, Section 3.12, Group Q, Columns 4 (Floor Area Ratio: .30 permitted, .548 proposed), 8 ( Front Yard: 25' required, 18.3' existing non-conforming being extended), 9 (Side Yard: 10' required, 9.1' existing), 10 (Total Side Yard: 20' required, 19.1 proposed) (Section 5.21d Undersized lot applies), 12 (Building Height Section 5.21 (e) applies: 20' permitted, 23.9' proposed) and from 5.153 (Accessory Structure Distance from Primary Structure: 15' required, 8' 3" proposed) &( Accessory Structure Side Yard: 5' required, 2.1' existing non-conforming) for an addition to an existing single-family residence. The premises are located at 190 Ridge Street, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 72.08, Block 1, Lot 49; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meetings held on the following Wednesdays, March 4, 2009 and March 18, 2009 at which time the Board made the determination hereinafter set forth.

Peter Bellhouse and Jonathan Hodash, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 1/28/09 (7 pages) signed and sealed by Jonathan B. Hodosh, Architect.
2. Twelve letters from neighbors in support of the application.
3. Twenty one pictures of the house and surrounding houses.

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

At the March 4, 2009 meeting it was determined that the building height variance had not been published and the applicant asked for a continuance.

At the March 18, 2009 meeting Jonathan Hodash, Architect, testified that the house was built in 1908; that the applicant purchased the house in 2006; that the existing house is barely a two bedroom house; that the existing house has two additional rooms that are technically not bedrooms because there are no closets in them; that they are proposing to make the house into a four bedroom house with three bathrooms; that the second floor of the existing house has very low ceilings and is actually half of a second floor; that the existing house is 1,617 sq. ft. and the proposal is for 3,158 sq. ft.; that the plans show four bedrooms, a laundry room upstairs, kitchen, family room; that if the lot were not undersized the floor area ratio would be .31 and .30 is permitted; that the proposed addition is in conformance on the north side, it is the existing house that needs the 9.1 side yard; that the proposed total side yard is in conformance, the existing condition is not; that the front yard variance is an existing condition that they are requesting to expand to add to the porch; that the house across the street has a wrap around porch and this architectural detail adds to the character of the house and is in keeping with the character of the neighborhood; that the house on the left received a building height variance for 23.11' in ZBA# 99-106; that Steinberg received a variance for total side yard and lot width in ZBA# 01-110 and ZBA# 00-104; that the gazebo is 119 sq. ft. and would provide an outside area for a barbeque and table; that the garage is 18.3' by 10.4' for 188.56 total square feet; that if the garage, gazebo and covering over the porch were removed it would lower the proposed floor area ratio to .50; that they would rather remove the gazebo, two feet from the north side of the proposed family room on the north side and the roof over the proposed addition to the porch, which would lower the floor area ratio to .487.

Peter Bellhouse testified that the existing house is very small and his family is expanding; that there are currently four people residing in the house; that he and his wife very recently had a baby; that he would really like to keep the garage for storage; that he would rather put a trellis over the proposed wrap around porch to reduce the floor area ratio and keep the garage; that he spoke to all of his neighbors and they are supportive of the application; and that he does not object to removing two feet from the north side of the family room or losing the gazebo to reduce the floor area ratio.

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 Mr. Sullivan 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 variances for floor area ratio as modified, front yard, side yard, total side yard, building height, and the 5.153 accessory structure distances from primary structure, and accessory structure side yard, will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to reduce the proposed floor area ratio by removing 2' off of the north side of the proposed family room, the roof over the proposed wrap around

porch and the gazebo. The removal of the gazebo also reduces the requested variance for accessory structure distance Zoning Code (Chapter 43). Section 5.21d undersized lot applies to this lot and is not uncharacteristic of the neighborhood.

2. The requested variances for floor area ratio as modified, front yard, side yard, total side yard, building height, and Zoning Code Chapter 43 §5.153 accessory structure distances from primary structure, and accessory structure side yard variances 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.
4. The requested variances for floor area ratio as modified, front yard, side yard, total side yard, building height, and § 5.153 accessory structure distance from primary structure, and accessory structure side yard 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 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 variances for floor area ratio as modified, front yard, side yard, total side yard, building height, and Zoning Code Chapter 43 § 5.153 accessory structure distance from primary structure, and accessory structure side yard are APPROVED with the SPECIFIC CONDITION that the applicant shall remove two feet from the north side of the proposed family room, the gazebo structure shall be removed, and the wrap around porch addition shall not have a roof, which will reduce the floor area ratio to .487 and reduce the accessory structure distance variance; 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 as modified, front yard, side yard, total side yard, building height, and from 5.153 accessory structure distance from primary structure, and accessory structure side yard variances with the specific condition that the applicant submit revised plans that show the removal of two feet from the north side of the proposed family room, the gazebo structure shall be removed, and the wrap around porch addition shall not have a roof, which will reduce the floor area ratio to .487 and reduce the accessory structure distance variance; was presented and moved by Ms. Albanese, seconded by Mr. Sullivan, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; and Ms. Castelli, aye. Mr. Mowerson 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 18, 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

**FRONT YARD, SIDE YARD AND BUILDING HEIGHT APPROVED WITH  
CONDITION**

To: Ana Marie Restrepo

ZBA # 09-15

109 Lafayette Road  
Tappan, New York 10983

Date: 3/18 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-15: Application of Ana Marie Restrepo for variances from Chapter 43, Section 3.12, R-15 District, Group M, Columns 8 ( Front Yard: 30' required, 27.33' existing and proposed), 9 (Side Yard: 20' required, 17' 7" existing and proposed), and 12 (Building Height: 17'7" permitted, 20'4' proposed) for an addition to an existing single-family residence. The premises is located at 109 Lafayette Road, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.06, Block 1, Lot 29.18; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meetings held on a Wednesday, March 18, 2009 at which time the Board made the determination hereinafter set forth.

Ana Marie Restrepo and Andrew Vazquez appeared and testified.

The following documents were presented:

1. Architectural plans dated 1/5/09 (5 pages) signed and sealed by Kathryn Connell, Architect.
2. Copy of survey.

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

Ana Restrepo testified that they would like to add a master bedroom and bathroom over the existing two car garage; that the house has three bedrooms but the third bedroom would accommodate the stairs up to the master bedroom and become a study; that she purchased the house in 2000; that there are four people in the family, and that she added the garage, pool and shed since she purchased the house.

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 Mr. Sullivan 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, side yard, and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to add the existing pool and shed to the site plan and similar additions have been constructed in the area.

2. The requested 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.
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, 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 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, side yard, and building height variances are APPROVED with the SPECIFIC CONDITION that the applicant update the site plan to show the existing pool and shed; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the

purposes hereof.

The foregoing resolution to approve the application for the requested front yard, side yard, and building height variances was presented and moved by Ms. Castelli, seconded by Mr. Sullivan, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; and Ms. Castelli, aye. Mr. Mowerson 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 18, 2009

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

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

TOWN CLERK  
HIGHWAY DEPARTMENT  
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MGMT. and ENGINEERING  
FILE,ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR











