

MINUTES
ZONING BOARD OF APPEALS
March 3, 2010

MEMBERS PRESENT: PATRICIA CASTELLI
 JOAN SALOMON
 NANETTE ALBANESE
 DANIEL SULLIVAN

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: 10 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:

MANHATTAN WOODS ENTERPRISES, LLC. 69.11 / 1 / 1; R-80 zone	FAVORABLE INTERPRETAION OF SECTION 3.11 (10) WITH CONDITIONS	ZBA#10-07
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NEW ITEMS:

MC INTYRE 69.05 / 2 / 66; R-15 zone	SECTION 4.53 VARIANCE APPROVED WITH CONDITION AND COVENANT	ZBA#10-13
LI / YUAN 70.06 / 1 / 55; R-40 zone	SIDE YARD VARIANCE APPROVED	ZBA #10-14
VALENTINE 74.06 / 3 / 16; R-15 zone	FRONT YARD AND ACCESSORY STRUCTURE VARIANCES APPROVED	ZBA#10-15
S M K TWEED BOULEVARD 68.15 / 2 / 9; R-15 zone	FRONT YARD VARIANCE APPROVED	ZBA#10-16
MIGGE 77.11 / 3 / 70; CS zone	POSTPONED	ZBA#10-17
FRENCHI PRODUCTS INC. PERFORMANCE STANDARDS 73.19 / 1 / 2; LIO zone	APPROVED WITH CONDITIONS	ZBA#10-18

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: Hayes Jr. minor Subdivision Plan, Burrows Lane, Blauvelt, N,Y, 70.09 / 3 / 41.1 & 33; R-15 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 10:20 P.M.

Dated: March 3, 2010

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

FAVORABLE INTERPRETATION OF SECTION 3.11 (10) WITH CONDITIONS

To: Anthony Montalbano (Manhattan Woods)	ZBA # 10-07
67 North Main Street	Date: March 3, 2010
New City, New York 10956	

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-07: Application of Manhattan Woods Enterprises, LLC for an interpretation from Chapter 43 (Zoning) of the Code of the Town of Orangetown, R-80 District, Section 3.11, (5), (1) and (10) or in the alternative of a use variance pursuant to Section 3.11 (5) for the use of the existing caretaker's house as a guest house. The premises is located at 1 Ahlmeyer Drive, West Nyack New York, and are identified on the Orangetown Tax Map as Section 69.11, Block 1, Lot 1; R-80 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 3, 2010 at which time the Board made the determination hereinafter set forth.

John Koh, Manhattan Woods, Gene Westmoreland, Metropolitan Golf Association, and Brian Quinn, Attorney, appeared and testified.

The following documents were presented:

1. Site plan "Proposed Caretaker's Residence for Manhattan Woods" dated 10/14/04 with the latest revision date of 5/16/06 not signed or sealed by Maser Consulting, P.A.
2. A certificate of occupancy for the caretaker dwelling.
3. Narrative for application (5 pages).
4. A letter dated January 22, 2010 from Brian Quinn, Montalbano, Condon & Frank, P.C.
5. A letter dated November 5, 2009 from Judith Procopio, Montalbano, Condon & Frank, P.C.
6. A list of county club golf courses that offer members and their guests over night accommodations submitted by the Metropolitan Golf Association.

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) (31); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Sullivan, aye. Mr. Mowerson was absent.

Brian Quinn, Attorney, testified that there is an existing single-family dwelling that was built and approved as a caretakers cottage on the golf course lot; that the new superintendent of the golf course does not live on site; that the caretakers cottage has a certificate of occupancy from 2006; that it has not been used for one year; that the applicant would like to use the existing four bedroom house for overnight lodging for members and their guests; that there would not be any physical changes to the 3,000 sq. ft. house; that under Section 11.2 (Definitions), Accessory states that (1) guest house, (1) caretaker's cottage or (1) servants' quarters may be considered as "accessory"; that under the general use regulations Section 3.11, #1 mentions only servants and caretaker's, that guest house is not included; that they are requesting that #10 of Section 3.11 "Any other accessory use not inconsistent with the uses permitted within" would permit the existing caretaker's cottage to be used as a guest house for members of the county club and their guests; that they would be willing to limit the number of guests that could use the facilities and the number of days per stay; that members of the facility would be eligible to use the facility for an additional charge; and that this would be an additional source of income for the association.

Gene Westmorland, consultant for the Metropolitan Golf Association, testified that there are 280 clubs that are part of the association; that he has been to the Manhattan Woods Golf Club many times; that many of the clubs in the association offer this amenity to their members; that he has a list of twenty clubs in the area that offer over night stays; that Dellwood Country Club, The Tuxedo Club Fenway Golf Club, Sleepy Hollow Country Club and several other local county clubs offer these amenities to their members at an additional charge; that he does not know if the number of nights are limited or how many guests are permitted in each club; that there are probably individual agreements for each club.

John Koh, Manhattan Woods Enterprises, testified that the nearest residents to the caretaker's cottage is approximately 400' away; that there is enough room for eight cars to park on the property; that the club currently has 195 members; that this would be a nice amenity to offer members and a good use for the existing house; that it would also afford the club an additional source of income; that overnight guests would also be using the clubhouse and spending money; and that he would agree to limit the number of guests to eight and the maximum stay could be limited to 14 days.

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 a favorable interpretation is granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

I. The requested favorable interpretation from Section 3.11 (10) will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The use of the caretaker's cottage as a guest house for members and their guests is interpreted as permitted with the following conditions: (1) applicant is reminded that it is required to comply with all applicable state, county, & town fire, building, & property maintenance codes regarding the use & occupancy of the guest house accessory building; (2) occupants of the guest house shall all be members, or bonafide guests of members, of the applicant's golf club; (3) there shall be no greater than 8 (eight) occupants of the guest house at any given time; (4) no individual occupant shall remain overnight more than 14 (fourteen) consecutive nights; (5) the guest house shall be considered an accessory building to the golf course use as contemplated by General Accessory Use #10 of the Zoning Code's "Table of General Use Regulations" (Chapter 43 §3.11); (6) there shall be no physical changes to the guest house or its site that are approved by this favorable interpretation unless as required to comply with codes; (7) A use variance has not been reviewed or addressed by the ZBA; (8) all of the conditions (1-7) above shall be listed on the Certificate of Occupancy.

II. The requested favorable interpretation of Section 3.11 (10) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There shall be no physical changes to the guest house or its site unless as required to comply with codes.

III. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a favorable interpretation of Section 3.11 (10).

IV. The requested favorable interpretation of § 3.11 (10) will not have an adverse effect or impact on the physical or environmental conditions of the area. The use of the caretaker's cottage as a guest house for members and their guests is interpreted as permitted with the following conditions: (1) applicant is reminded that it is required to comply with all applicable state, county, & town fire, building, & property maintenance codes regarding the use & occupancy of the guest house accessory building; (2) occupants of the guest house shall all be members or bonafide guests of members of the applicant's golf club; (3) there shall be no greater than 8 (eight) occupants of the guest house at any given time; (4) no individual occupant shall remain overnight more than 14 (fourteen) consecutive nights; (5) the guest house shall be considered an accessory building to the golf course use as contemplated by General Accessory Use #10 of the "Zoning Code's Table of General use Regulations (Chapter 43 §3.11); (6) there shall be no physical changes to the guest house or its site that are approved by this favorable interpretation unless as required to comply with codes; (7) A use variance has not been reviewed or addressed by the ZBA; (8) all of the conditions (1-7) above shall be listed on

the Certificate of Occupancy.

- V. 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 favorable interpretation.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested interpretation of Section 3.11 (10) is granted favorably with the following SPECIFIC CONDITIONS: (1) applicant is reminded that it is required to comply with all applicable state, county, & town fire, building, & property maintenance codes regarding the use & occupancy of the guest house accessory building; (2) occupants of the guest house shall all be members, or bonafide guests of members, of the applicant's golf club; (3) there shall be no greater than 8 (eight) occupants of the guest house at any given time; (4) no individual occupant shall remain overnight more than 14 (fourteen) consecutive nights;(5) the guest house shall be considered an accessory building to the golf course use as contemplated by General Accessory Use #10 of the Zoning Code's "Table of General Use Regulations" (Chapter 43 §3.11); (6) there shall be no physical changes to the guest house or its site that are approved by this favorable interpretation unless as required to comply with codes; (7) A use variance has not been reviewed or addressed by the ZBA; (8) all of the conditions (1-7) above shall be listed on the Certificate of Occupancy. 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 favorable interpretation of Section 3.11 (10) with conditions 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. 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 3, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

SECTION 4.53 VARIANCE APPROVED WITH CONDITION AND COVENANT

To: Daniel and Marie McIntyre

ZBA # 10-13

9 Lombardi Road

Date: March 3, 2010

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-13: Application of Daniel and Marie McIntyre for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown, R-15 District, Section 4.53 (There shall be only a single front entrance; two proposed) (Local Law #7). The premises are located at 9 Lombardi Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.05, Block 2, Lot 66; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 3, 2010 at which time the Board made the determination hereinafter set forth.

Daniel McIntyre appeared and testified.

The following documents were presented:

1. Three pages of hand drawn plans for the proposed apartment.

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; Ms. Albanese, aye; and Mr. Sullivan, aye. Mr. Mowerson was absent.

Daniel McIntyre testified that he just moved his 90 year old mother into the apartment

that he built on the first level of his house; that he is requesting permission to have two front doors because he needs to have a flat entrance into the apartment because his mother is in a wheelchair; that he can't make the entrance on the side of the garage because it would be too expensive; that the land is not level and the earth rises up around that side of the garage; that he has had drainage problems on his property and because of it he has added underground pipes on that side of the house for the gutters in the rear of the house to drain into and out to the road; that the electric panel and the air conditioning unit is on that side of the garage; and that he would like to be able to keep the door in the front but he will move it later if that is the only way to get it approved for his mother 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.

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 Section 4.53 variance will produce an undesirable change in the character of the neighborhood and a detriment to nearby properties, but the second front door is necessary to enable the applicants' wheel chair bound mother access to the apartment. When the applicant's mother no longer resides in the apartment, the door must be re-located to the side or rear of the residence within 180 days of her no longer being an occupant.
2. The requested Section 4.53 variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . The second front door is necessary to enable the applicants' wheel chair bound mother access to the apartment. When the applicant's mother no longer resides in the apartment; the door must be re-located to the side or rear of the residence within 180 days of her no longer being an occupant.
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 Section 4.53 variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The second front door is necessary to enable the applicants' wheel chair bound mother access to the apartment. When the applicant's mother no longer resides in the apartment; the door must be re-located to the side or rear of the residence within 180 days of her no longer being an occupant.
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 Section 4.53 variance is APPROVED with the SPECIFIC CONDITION that the applicant must re-locate the apartment door to the side or rear of the house within 180 days of the date that his mother vacates the apartment; 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 Section 4.53 variance with the specific condition that the applicant must re-locate the apartment door to the side or rear of the house within 180 days of the date that his mother vacates the apartment; was presented and moved by Ms. Albanese, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, nay; Ms. Albanese, aye; Ms. Salomon, 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 3, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

SIDE YARD VARIANCE APPROVED

To: Jane Slavin (LI/Yuan)

ZBA # 10-14

25 Greenbush Road
Orangeburg, New York 10962

Date: March 3, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-14: Application of Qiong Li and Yonghui Yuan for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, R-40 District, Group E, Column 9 (Side Yard: 30' required, 15.83' proposed) and from Section 5.153 (Accessory Structure Distance: 15' required to principal building, 14' existing) for an addition to an existing single-family residence. The premises is located at 36 Leber Road, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.06, Block 1, Lot 55; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 3, 2010 at which time the Board made the determination hereinafter set forth.

Qiong Li, Yonghui Yuan and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 12/11/09 (2 pages) signed and sealed by Jane Slavin, Architect.
2. Plot plan dated February 2, 2010 signed and sealed by Jane Slavin, Architect.
3. Four computer generated pictures of the house.

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; Ms. Albanese, aye; and Mr. Sullivan, aye. Mr. Mowerson was absent.

Li Yuan testified that they purchased the house in September; that there are three people in the family living in the house; and that the shed will be moved to be in compliance.

Jane Slavin, Architect, testified that she would like to submit the previous Zoning board decision dated December 1, 1993; that they are proposing to renovate the house and add a 7' connection between the house and existing carport and turn the carport into an attached 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.

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 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 and the applicant has agreed to move the shed to comply with the zoning regulations.
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. Similar additions have been constructed in the area and the applicant has agreed to move the shed to comply with the zoning regulations.
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 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. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, 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 3, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

FRONT YARD AND ACCESSORY STRUCTURE VARIANCES APPROVED

To: Jane Slavin (Valentine)

ZBA #10-15

25 Greenbush Road
Orangeburg, New York 10962

Date: March 3, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-15: Application of Paul Valentine for variances 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, 22.4' existing for house) and from Section 5.227 (Accessory Structure permitted in rear or side yard; garage existing in front yard with a 22.5' front yard; side yard set back for accessory structure: 5' required, 3' existing, 1' proposed) for

an addition to an existing accessory structure at an existing single-family residence. The premises are located at 461 Western Highway, Orangeburg, New York, and are identified on the Orangetown Tax Map as Section 74.06, Block 3, Lot 16; R-15 zone

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 3, 2010 at which time the Board made the determination hereinafter set forth.

Paul Valentine and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 10/14/09 (1 page) signed and sealed by Jane Slavin, Architect.
2. Plot plan dated 12/1/09 signed and sealed by Robert E. Sorace, L.S.
3. A letter dated March 1, 2010 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
4. A letter dated March 1, 2010 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
5. A letter in support of the application dated November 2009 from St. Catherine's Theatre Group signed by Patrick Vitale, Treasurer.
6. Six digital pictures of the garage.

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; Ms. Albanese, aye; and Mr. Sullivan, aye. Mr. Mowerson was absent.

Jane Slavin, Architect, testified that the existing garage has a 16foot depth; that the house was built in 1890; that at some time an additional 2.8' was added to the rear of the garage; that the rear of the structure is located on a flat piece of property above the railroad; that the rear of the structure was not built in a safe way; that they would like to make the existing garage 22' deep and 22.4' wide; that the property is pie shaped; and that it might have been built as a carriage house.

Paul Valentine testified that he stores items for the Lion's Club and St. Catherine's Theatre group upstairs; that the stairs aren't that safe and he wouldn't let anyone else use them; that the door in the front was probably used to store hay; and that the temporary tent is storing his stuff.

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 accessory structure location variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar garages exist in the area.
2. The requested front yard and accessory structure location variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar garages exist 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 accessory structure location 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 front yard and accessory structure location 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 accessory structure location variances was presented and moved by Mr. Sullivan, seconded by Ms. Salomon, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, 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 3, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

FRONT YARD VARIANCE APPROVED

To: Jay Greenwell (SMK Tweed Boulevard) ZBA # 10-16

85 Lafayette Avenue
Suffern, New York 10901

Date: March 3, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-16: Application of SMK Tweed Boulevard for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown Section 3.12, R-22 District, Group I, Column 8 (Front Yard: 40' required, 23.9' existing, 25' proposed) for an addition to an existing single-family residence. The premises is located at 7 Tweed Boulevard, Upper Grandview, New York, and are identified on the Orangetown Tax Map as Section 71.09, Block 1, Lot 54; R-22 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 3, 2010 at which time the Board made the determination hereinafter set forth.

Jay Greenwell, Land Surveyor, Sean Keenan, owner, and Robert Hoene, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 7/16/09 (2 pages) signed and sealed by Robert Hoene, Architect.
2. Survey dated 10/08/09 signed and sealed by Jay A. Greenwell, P. L.S.
3. A letter dated January 27, 2010 from John Giardiello, Director, Office of Building, Zoning and Planning Administration and Enforcement.
4. A letter dated March 1, 2010 from the County of Planning Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
5. A letter dated March 3, 2010 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.

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; Ms. Albanese, aye; and Mr. Sullivan, aye. Mr. Mowerson was absent.

Jay Greenwell, Land Surveyor, testified that there is a valid building permit issued on this property; that originally they were going to expand into the existing structure; that because this property is located in a critical environmental area it has gone to Planning Board and ACABOR; that during the renovation of the existing building it was discovered how difficult the existing driveway was to negotiate; that the plan was changed to resolve this problem and that was when they decided to re-orientate the driveway and tilt the garage and connect to the house by a mudroom; that there will be less impervious surface and a safer driveway access; that they already have a permit from the County Highway Department; that the area has many steep drop off properties that have needed front yard variances; and that they are actually reducing the degree of non-conformity because existing is 23.9' front yard and they are requesting a 25' front yard.

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 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 and the applicant is reducing the

degree of non-conformity from a 23.9' to 25' front yard setback.

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. Similar additions have been constructed in the area and the applicant is reducing the degree of non-conformity from a 23.9' to 25' front yard setback.
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 variance is not substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The applicant is reducing the degree of non-conformity from a 23.9' to 25' front yard setback and creating safer access to the property by re-orientating the driveway.
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 with the following conditions: (1) County of Rockland Department of Planning letter dated March 1, 2010 comments shall be addressed to the satisfaction of the Building Department; 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. Salomon, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, 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 3, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

PERFORMANCE STANDARDS VARIANCE APPROVED

To: Allen Gandler (Frenchi Products)

ZBA # 10-18

317 Madison Avenue Suite 610
New York, New York 10017

Date: March 3, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-18: Application of Frenchi Products, Inc. pursuant to Sections 4.12, Column 4 #4 for Use subject to Performance Standards Review with respect to the commercial packaging of nail polish. Premises are located at 30 Corporate Drive, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 73.19, Block 1, Lot 2; LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 3, 2010 at which time the Board made the determination hereinafter set forth.

Sam Gandler and Allen Gandler appeared and testified.

The following documents were presented:

1. As Built Interior Plan for Charabot & Co. Inc. dated April 2008.
2. Title survey dated 2/14/07 by Edward G. Mihalczko, L.S.
3. Use Subject to Performance Standards Resume of Operation.
4. Fire Prevention Supplement.
5. Material Data Sheets (46 pages).
6. A letter dated March 1, 2010 from Michael B. Bettman, Chief Fire Inspector, Town of Orangetown.
7. A letter dated February 10, 2010 from Ronald Delo, P.E., Director, Department of Environmental Management and Engineering, Town of Orangetown.
8. A letter dated February 4, 2010 from the County of Rockland Department of

Planning.

9. A letter dated February 4, 2010 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.

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 exempt from the State Environmental Quality Review Act (SEQRA) pursuant to SEQRA Regulations §617.5 (c) (28) engaging in a review to determine compliance with technical requirements which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Ms. Salomon, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Sullivan, aye. Mr. Mowerson was absent.

Sam Gandler testified that the business is a family business; that they have three brand names that they export to Russia and Europe; that they will be mixing nail treatments and packaging at this facility; that this building is perfect for what their business; that they are very happy to be moving into the Town.

Allen Gandler testified that they will contact the Health Department with more information on the exhaust and the Fire Inspector to meet all of his requirements.

The Performance Standards Resume of Operations and Equipment, and the Fire Prevention Supplement completed by the applicant were thereupon reviewed in detail.

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

1. Based upon the information contained in applicants' Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated March 1, 2010 from Michael Bettmann, Chief Fire Inspector, Bureau of Fire Prevention of the Town of Orangetown; the letter of the Director of the Orangetown Department of Environmental Management and Engineering dated February 10, 2010, concluding there is no reasonable doubt as to the likelihood of applicant's conformance; the letter dated February 4, 2010 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer; the other documents presented to the Board and the testimony of applicant's representatives, the Board finds and concludes that conformance with

the Performance Standards set forth in the Orangetown Zoning Code (Chapter 43) Section 4.1 will result, sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to compliance with the orders, rules and regulations of the Building Department and all other departments having jurisdiction of the premises.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for Performance Standards Conformance is APPROVED with the SPECIFIC CONDITION that the applicant adhere to all of the requirements set forth by the Orangetown Bureau of Fire Prevention and Rockland County Health Department; 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 Performance Standards Conformance Approval as conditioned was presented and moved by Ms. Castelli, seconded by Ms. Albanese, and carried as follows: Ms. Salomon, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Ms. Albanese, 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 3, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By _____
Deborah Arbolino

Administrative Aide

