

MINUTES  
ZONING BOARD OF APPEALS  
March 4, 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 ITEM:

ART STUDENTS LEAGUE POSTPONED ZBA#09-09  
75.13 / 1 / 1 & 74.16 / 1 / 9; R-40 zone

NEW ITEM:

CONESE FRONT YARD, ZBA#09-14  
64.18 / 1 / 63; R-15 zone  
SIDE YARD AND  
BUILDING HEIGHT VARIANCES  
APPROVED

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 4, 2009

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
ASSESSOR  
HIGHWAY DEPARTMENT  
SUPERVISOR  
TOWN BOARD MEMBERS  
BUILDING INSPECTOR (Individual Decisions)  
DEPT. of ENVIRONMENTAL MGMT. and ENGINEERING  
Rockland County Planning

DECISION

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

To: Thomas and Sheila Conese

ZBA # 09-14

7 Villa Drive

Date: 3 / 4 / 09

Nanuet, New York 10954

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-14: Application of Thomas and Sheila Conese for variances from Chapter 43, Section 3.12, R-15 District, Group M, Columns 8 (Front Yard: 30' required, 29.5' existing, 26.2' proposed), 9 (Side Yard: 20' required, 10.4' proposed), and 12 (Building Height: 10.4' permitted, 18' proposed) for an addition to an existing single-family residence. The premises is located at 7 Villa Drive, Nanuet, New York, and are identified on the Orangetown Tax Map as Section 64.18, Block 1, Lot 63; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 4, 2009 at which time the Board made the determination hereinafter set forth.

Thomas and Sheila Conese appeared and testified.

The following documents were presented:

1. Architectural plans dated December 2, 2008 with a revision date of December 10, 2008 signed and sealed by John Perkins, Architect.
2. A letter in support of the application, dated March 4, 2009 from Keith and Donna Flynn, 13 Villa Drive, Nanuet.
3. ZBA#03-63, ZBA#02-69 for 11 Villa Drive; ZBA#96-62 for 10 Venter Lane; ZBA#03-100 for 7 Hillside Terrace; and ZBA#04-20 for 12 Venter Lane.

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

Thomas Conese testified that they would like to add a garage and bedrooms above it; that they would also like to add a covering over the front door; that they have two daughters aged eight and four; that they presently share a bedroom; that there is presently three bedrooms in the house but one is a small guest room downstairs and they would like to have all of the family bedrooms upstairs; that they would like to put one car in the garage and the kids bikes; that they have a basement but it gets water; that they have owned the house for seven years and love the neighborhood; and that he would like to submit five variances that were granted in the neighborhood.

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 submitted variance approvals for five other properties in the area that prove that his submission is in keeping with the character of the neighborhood.
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; 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 Mr. Sullivan, seconded by Ms. Castelli, 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 4, 2009

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

Deborah Arbolino

**Administrative Aide**

**DISTRIBUTION:**

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

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





