

MINUTES
ZONING BOARD OF APPEALS
MARCH 7, 2012

MEMBERS PRESENT: JOAN SALOMON
 PATRICIA CASTELLI
 DANIEL SULLIVAN
 NANETTE ALBANESE
 THOMAS WARREN, ALTERNATE

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 Ms. Castelli, Acting Chairperson.

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:

PAPALAMBROS 77.07 / 2 / 53; R-15 zone	FLOOR AREA RATIO AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#11-104
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NEW ITEMS:

LASH 66.17 / 1 / 24; R-22 zone	SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#12-13
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HENNESSY 69.16 / 1 / 1; R-15 zone	SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#12-14
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NARODE 70.10 / 2 / 5; R-15 zone	REAR YARD VARIANCE APPROVED	ZBA#12-15
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FUGAZZOTTO 74.06 / 1 / 38; R-22 zone	FRONT YARD VARIANCE VARIANCE APPROVED	ZBA#12-16
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ADDITIONAL BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following applications:

Brown Estates Minor Subdivision Plan, 520 Kings Highway, Sparkill, New York, 74.20 / 1 / 9; RG zone; Spaeth Site Plan, Critical Environmental Area, 33 Tweed Boulevard, Grandview, New York, 71.09 / 1 / 42; R-22 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

THE 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 8:10 P.M.

Dated: March 7, 2012

DECISION

FLOOR AREA RATIO AND BUILDING HEIGHT VARIANCES APPROVED

To: George and Carol Papalambros

ZBA # 11-104

138 Campbell Avenue

Date: December 7, 2011

Tappan, New York 10983

March 7, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 11-104: Application of George and Carol Papalambros for variances from Chapter 43 (Zoning), R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .26 proposed), 12 (Building Height: 20' permitted, 23' proposed) (Section 5.21e Undersized lot applies) and from Section 5.153 (Shed in front yard) for an addition to an existing single-family residence. The premises is located at 138 Campbell Avenue, Tappan, New York an identified on the Orangetown tax Map as Section 77.07, Block 2, Lot 53; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 7, 2011 at which time the Board made the determination hereinafter set forth.

George and Carol Papalambros appeared and testified.

The following documents were presented:

1. Architectural plans dated 04/12/2011 signed and sealed by Joseph A. Cecco, Architect.
2. Survey dated July 22, 2011 signed and sealed by Stephen F. Hoppe, L.S.
3. A letter dated December 1, 2011 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
4. A letter dated November 30, 2011 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
5. Planning Board Decision #74-109 concerning the original subdivision of property that includes this lot.
6. Architectural plans dated 12/13/11 signed and sealed by Jane Slavin, Architect.
7. Survey dated July 22, 2011 with the latest revision date of February 7, 2012 signed and sealed by Stephen F. Hoppe, L.S.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by

Ms. Castelli and carried unanimously.

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson 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. Castelli and carried as follows: Mr. Warren, aye; Ms. Salomon, aye; Ms. Albanese, aye; Ms. Castelli, aye; and Mr. Mowerson, aye. Mr. Sullivan was absent.

At the December 7, 2011 meeting George Papalambros testified that they would like to extend the existing kitchen; that the proposed addition is 24' x 17'; that they did not know that they could not place anything in the vegetative buffer; and that they would like a continuance to investigate the matter.

At the March 7, 2012 meeting Jane Slavin, Architect and George and Carol Paplambros appeared and testified.

Jane Slavin testified that the rear yard buffer has been preserved; that the proposed addition has been reduced on the lower level and cantilevered on the 2nd floor to be in compliance; that the 8 x 10' shed has been moved into the side yard; and that these changes have reduced the floor area ratio from .26 to .23.

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. Castelli 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 floor area ratio 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 maintained the 65' no disturbance buffer in the rear of the house by reducing the first floor addition and cantilevering the second floor addition, which reduced the proposed floor area ratio to .23. The Shed that was originally in the buffer area has been moved to the side property and is in compliance with the Zoning Code and/or prior land use board approval conditions.
2. The requested floor area ratio and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has maintained the 65' no disturbance buffer in the rear of the house by reducing the first floor addition and cantilevering the second floor addition, which reduced the proposed the floor area ratio to .23. The Shed that was originally in the buffer area has been moved to the side property and is in compliance with the Zoning Code and/or prior land use board approval conditions.

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 floor area ratio and building height variances, are not substantial, and will not have an adverse effect or impact on the physical or environmental conditions of the area. . The applicant has reduced the requested floor area ratio to .23 and the shed has been moved out of the buffer area and is in compliance with the Zoning Code and/or prior land use board approval conditions.
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 floor area ratio, as reduced to .23 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 floor area ratio and

building height variances as modified was presented and moved by Mr. Sullivan, seconded by Ms. Albanese and carried as follows: Ms. Castelli, aye; Mr. Warren, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Sullivan, 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 7, 2012

DECISION

SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Allan Lash

ZBA # 12-13

260 South Boulevard
Grandview, New York 10960

Date: March 7, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 12-13: Application of Allan Lash for variances from Chapter 43 (Zoning), R-22 District, Group I, refer to Section 5.21(b) (Side Yard: 20' required, 12.1' proposed) and (Total Side Yard: 40' required, 27.7' proposed) and from Section 3.12, R-22 District, Group I, Column 12 (Building Height: 13.6' permitted, 15' proposed) for an addition to an existing single-family residence. The premises are located at 260 South Boulevard, Upper Grandview, New York and are identified on the Orangetown Tax Map as Section 66.17, Block 1, Lot 24; R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 7, 2012 at which time the Board made the determination hereinafter set forth.

Allan Lash appeared and testified.

The following documents were presented:

1. Survey by William Youngblood, L.S., dated July 26, 1979.
2. Architectural plans dated 09/27/2011 signed and sealed by Allan Lash, P.E..
3. Planning Board Decision #11-60 dated December 14, 2011.
4. A memorandum from the County of Rockland Department of Planning.
5. A letter dated January 3, 2012 from the County of Rockland Department of Health signed by Scott McKane, P.E..
6. A letter dated March 5, 2012 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..

Ms. Castelli, Acting Chair, 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: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Warren, aye; and Ms. Castelli, aye; and Mr. Mowerson was absent.

Allan Lash testified that he and his wife have owned the house for 33 years; they are the second owners of the property; that the college tuitions and mortgage are finished; that he is retired and the kitchen is very small; that they are proposing the addition to the kitchen to make life more comfortable; that he designed it with a shed roof to be less intrusive;; that they cannot go out the rear because the bathrooms and stairwell are located there; that the neighbor to the south has a pre-existing garage on this side of the property that is 2 ½ feet from the property line; and that this lot is the smallest on the street.

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. Albanese 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. The house as it sits on the lot is intruding into the side yard and moving the proposed addition to the rear would mean reconfiguring the interior space. The applicant is proposing a shed roof to be less intrusive and the house is located on the smallest lot on the street.
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. The house as it sits on the lot is intruding into the side yard and moving the proposed addition to the rear would mean reconfiguring the interior space. The applicant is proposing a shed roof to be less intrusive and the house is located on the smallest lot on the street.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The existing house has non-conforming side and total side yard setbacks and was constructed in 1931 before the Zoning Code was enacted.
4. The requested side yard, total side yard and building height variances, although substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The existing house has non-conforming side and total side yard setbacks and was constructed in 1931 before the Zoning Code was enacted. The house as it sits on the lot is intruding into the side yard and moving the proposed addition to the rear would mean reconfiguring the interior space. The applicant is proposing a shed roof to be less intrusive and the house is located on the smallest lot on the street.

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. Albanese, seconded by Mr. Sullivan and carried as follows: Ms. Castelli, aye; Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Warren, 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 7, 2012

DECISION

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

To: Michael and Donna Hennessy
48 Wilson Street
Blauvelt, New York 10913

ZBA # 12-14

Date: March 7, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 12-14: Application of Michael and Donna Hennessy for variances from Chapter 43 (Zoning), R-15 District, Columns 9 (Side Yard: 20' required, 7.7' proposed), 10 (Total Side Yard: 50' required, 33.6' proposed) and 12 (Building Height: 7.7' permitted, 17' proposed) for an addition to an existing single-family residence. The premises are located at 48 Wilson Street, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 69.16, Block 1, Lot 1; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 7, 2012 at which time the Board made the determination hereinafter set forth.

Michael and Donna Hennessy appeared and testified.

The following documents were presented:

1. Copy of survey prepared by Jeffrey W. Donnellon, L.S. dated 5/21/04 with a revision date of 12/9/11 signed and sealed by Barbara Hess, Architect.
2. Site plan dated 12/9/11 signed and sealed by Barbara Hess, Architect.
3. Architectural plans dated July 11, 2011 signed and sealed by Barbara Hess, Architect.
4. A letter in support of the application signed by Joanne and Timothy Korines, 40 Wilson Street, Blauvelt.

Ms. Castelli, Acting Chair, 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: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Warren, aye; and Ms. Castelli, aye; and Mr. Mowerson was absent.

Michael Hennessy testified that they are proposing to add a two car garage and a six foot wide mudroom to the side of the existing house with a screened in porch in the rear of the house; that they need the twenty-four foot wide garage to accommodate their two large SUV's; that they cannot make the mudroom any less wide or it would become a hallway and they cannot move it because they have a basement window that they do not want to cover it and the meters are also located on that side of the house; that the proposed addition would still be about thirty feet away from the nearest neighbors 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 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. The existing house is small and does not have a garage and the proposed garage is located at the end of the existing driveway. The neighbor most affected by the proposal wrote a letter of support for the proposal.
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. The existing house is small and does not have a garage and the proposed garage is located at the end of the existing driveway. The neighbor most affected by the proposal wrote a letter of support for the proposal.
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, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. There is no other logical place to construct a garage on the property, the existing driveway is located on this side of the house.
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: ; Ms. Albanese, aye; Ms. Castelli, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Mr. Warren, 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 7, 2012

DECISION

REAR YARD VARIANCES APPROVED

To: Patrice Narode

ZBA # 12-15

8 Garber Hill Road
Blauvelt, New York 10913

Date: March 7, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 12-15: Application of Scott and Patrice Narode for variances from Chapter 43 (Zoning), R-15 District, Group M, Column 11 (Rear Yard: 35' required, 18' existing & proposed) for an existing deck at an existing single-family residence. The premises are located at 8 Garber Hill Road, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.10, Block 2, Lot 5; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 7, 2012 at which time the Board made the determination hereinafter set forth.

Patrice Narode appeared and testified.

The following documents were presented:

1. Plans labeled "Narode residence deck- as built" dated August 8, 2011 by Hess Architects.

Ms. Castelli, Acting Chair, 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: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Warren, aye; and Ms. Castelli, aye; and Mr. Mowerson was absent.

Patrice Narode testified that a contractor built the deck in June 2010 without getting a permit; that they did not realize the deck was built without a permit until recently; that she and her husband are divorcing and selling the house; that she is before the Board to legalize the deck and get a certificate of occupancy for it; and that when this is straightened out, the house can be sold.

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. Albanese 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 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The deck was constructed in 2010 without a permit and the applicant is legalizing the deck and obtaining a certificate of occupancy for it. In order to obtain the certificate of occupancy a variance is needed and the deck will be certified that it was built to code.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The deck

was constructed in 2010 without a permit and the applicant is legalizing the deck and obtaining a certificate of occupancy for it. In order to obtain the certificate of occupancy a variance is needed and the deck will be certified that it was built to code.

3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance. The deck was constructed in 2010 by a contractor that did not apply for a permit, the applicant is before the Board to correct this error.
4. The requested rear yard variance, although somewhat substantial, affords benefits to the applicants that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The deck has existed since June 2010 without incident.
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 rear 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 rear yard variance was presented and moved by Mr. Warren, seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Warren, 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 7, 2012

DECISION

FRONT YARD VARIANCE APPROVED

To: Anthony and Josephine Fugazzotto

ZBA # 12-16

119 Chestnut Oval
Orangeburg, New York 10962

Date: March 7, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 12-16: Application of Anthony and Josephine Fugazzotto for a variance from Chapter 43 (Zoning), RG District, Group Q, Column 8 (Front Yard: 25’ required, 18.9’ approved in ZBA#99-125 & 16.16’ existing & proposed) to enclose an existing carport at an existing single-family residence. The premises are located at 119 Chestnut Oval, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.06, Block 1, Lot 38; RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 7, 2012 at which time the Board made the determination hereinafter set forth.

Anthony Fugazzotto and Joseph Sapienza appeared and testified.

The following documents were presented:

1. Architectural plans dated 12/16/2011 signed and sealed by Dominic Pilla, P.E. with site plan.
2. Zoning Board of Appeals Decision #99-125 dated December 15, 1999.
3. Certificate of Occupancy for carport dated 06/25/2001.

Ms. Castelli, Acting Chair, 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: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Warren, aye; and Ms. Castelli, aye; and Mr. Mowerson was absent.

Anthony Fugazzotto testified that he would like to enclose the existing carport and extend the existing kitchen; that the existing kitchen is very small; that the carport was built in 1999; that his two kids are done with college and the mortgage is paid off; that presently there are two members of the family living in the house; that he is retired and he and his wife keep bumping into each other in the kitchen and his mother-in-law will most likely be moving n soon.

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. The proposal before the Board is to enclose a carport that was granted a variance in 1999 and the foot print is not changing. The applicant has the hardship of owning a corner lot with two front yards.
2. The requested front yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposal before the Board is to enclose a carport that was granted a variance in 1999 and the foot print is not changing. The applicant has the hardship of owning a corner lot with two front yards.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The applicant has the hardship of owning a corner lot with two front yards.
4. The requested front yard variance, although somewhat substantial, affords benefits to the applicants that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The existing carport was granted a variance in ZBA#99-125 and the garage will not change the character of the neighborhood.
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**; 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. Castelli, seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Warren, 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 7, 2012

