

MINUTES
ZONING BOARD OF APPEALS
May 19, 2010

MEMBERS PRESENT: WILLIAM MOWERSON
DANIEL SULLIVAN
PATRICIA CASTELLI
JOAN SALOMON
NANETTE ALBANESE

ABSENT: NONE

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 Mr. Mowerson, Chairman.

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:

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

BENTLEY 70.14 / 3 / 21; R-15 zone	REAR YARD VARIANCE APPROVED	ZBA#10-30
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ORR 68.15 / 3 / 36; RG zone	FRONT YARD, TOTAL SIDE YARD AND ACCESSORY STRUCTURE DISTANCE VARIANCES APPROVED	ZBA#10-31
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BARBELET 70.14 / 1/ 2.2; R-15 zone	FLOOR AREA RATIO VARIANCE APPROVED	ZBA#10-32
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THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

The verbatim minutes, as recorded by the Board's official stenographer for the above hearings, are not transcribed.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 9:30 P.M.

Dated: May 19, 2010

ZONING BOARD OF APPEALS

TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DECISION

REAR YARD VARIANCE APPROVED

To: Michael and Roberta Bentley

ZBA # 10-30

71 East Erie Street

Date: May 19, 2010

Blauvelt, New York 10913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-30: Application of Michael and Roberta Bentley for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, R-15 District, Group M, Section 3.12, Columns 11 (Rear Yard: 35' required, 29' proposed) for the addition of a deck to an existing single family residence. The premises are located at 71 East Erie Street, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.14, Block 3, Lot 21; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 19, 2010 at which time the Board made the determination hereinafter set forth.

Michael Bentley appeared and testified.

The following documents were presented:

1. Survey dated 1/13/1955 signed by Robert Jost, L.S. with the deck drawn on it.
2. A deck plan.
3. Three letters from abutting property owners in support of the application.

Mr. Mowerson 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, 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: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Sullivan, aye; and Mr. Mowerson, aye.

Michael Bentley testified that he had a deck that was old and in need of repair; that he needed to replace it and found out that it had been built a foot too large; that he decided to enlarge it a little more to accommodate his growing family and needs a variance for six foot; that he and his wife purchased the house in 1982; that they have four children; two grandchildren and another on the way; that the house is small but they do a lot of entertaining with the family outside and will get a lot of use out of the deck; and that the letters are from his neighbors that would be most affected by the deck.

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

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested 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 Ms. Salomon, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

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: May 19, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

DECISION

**FRONT YARD, TOTAL SIDE YARD, ACCESSORY DISTANCE VARIANCES
APPROVED**

To: Brian and Kerry Orr

ZBA # 10-31

74 Lincoln Avenue

Date: May 19, 2010

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-31: Application of Brian and Kerry Orr for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, RG District, Group Q, Section 3.12, Column 8 (Front Yard: 25' required, 23.3' existing and proposed) and 10 (Total Side Yard: 30' existing, 27.2' existing, 23.2' proposed) and from Section 5.153 (Accessory Structure

distance from principal building: 15' required, 9.5' proposed) for an addition to an existing single family residence. The premises are located at 74 Lincoln Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.15, Block 3, Lot 36; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 19, 2010 at which time the Board made the determination hereinafter set forth.

Brian and Kerry Orr appeared and testified.

The following documents were presented:

1. Architectural plans dated 1/25/10 (3 pages) signed and sealed by Sanford Lent, P.E.
2. Survey dated December 24, 2009 with a revision date of January 6, 2010 signed and sealed by Jay A. Greenwell, L.S.
3. A copy of the survey with the proposed addition drawn in.
4. A petition in support of the application with 15 signatures from surrounding neighbors.
5. Seven letters in support of the application from abutting property owners.

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: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Sullivan, aye; and Mr. Mowerson, aye.

Brian Orr testified that they are proposing to add a mudroom, bathroom and great room; that the addition is one-story with a basement; that they have owned the house for five years; that they have one bathroom upstairs and would like to have a bathroom on the first floor; that they have one child and plan to have more; that the garage exists and it is used as a garage; that 75% of the houses on Lincoln have additions, some are two-story additions and some have small additions to the front and rear of the house; that their child is the fifth child born on the block and it is a great neighborhood and they want to stay there and raise the family.

Kerry Orr testified that the widths of the houses on the street vary; that they really need a bathroom on the first floor; that going through the pregnancy with one bathroom upstairs was difficult; and that they love the neighborhood.

Public Comment:

Michael O'Sullivan, Lincoln Ave., testified that he is speaking in full support of the application.

Jim Doyle, 55 Lincoln Ave., testified that the Orr's are great neighbors; that they have one child and are planning to have more; that the house is small and one bathroom is difficult; and that he fully supports the granting of the variances.

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

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested front yard, total side yard and accessory structure distance 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, total side yard and accessory structure distance variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

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: May 19, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

FLOOR AREA RATIO VARIANCE APPROVED

To: Kevin and Lauren Barbelet

ZBA # 10-32

10 Private DelRegno Lane
Blauvelt, New York 10913

Date: May 19, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-32: Application of Kevin and Lauren Barbelet for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown, R-15 District, Group M, Section 3.12, Column 4 (Floor Area Ratio: .20 permitted, .21 proposed) for a replacement of an existing covered porch at an existing single family residence. The premises are located at 10 Private Del Regno Lane, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.14, Block 1, Lot 2.2; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 19, 2010 at which time the Board made the determination hereinafter set forth.

Lauren Barbelet and Margaret Fowler, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated January 12, 2010 (4 pages) signed and sealed by Margaret Fowler, Architect.
2. Survey dated 4/7/99 signed and sealed by Theodore Atzl, 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: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Sullivan, aye; and Mr. Mowerson, aye.

Margaret Fowler, Architect, testified that Lauren and Kevin came to her because the existing decking and railing on the porch was falling apart; that the existing porch is less than four foot wide; that she would like to submit a picture of the porch showing that the porch swing hits the house and the railing and is unusable; that they would like to make the porch more appealing and usable; that they have honored the front yard setback but need a slight variance for floor area ratio; and that the proposed new area would be 110 sq. ft.

Lauren Barbelet testified that railing was separating from the porch; that a neighbor on the street just re-did their porch and made it slightly larger and it is a great place to sit and watch the kids ride their bikes; and that she would like to be able to do the same thing; that the house was built in 1999; that she has a deck and pool and they both have certificate of occupancies; and that she and her husband have two children ages 10 and 5.

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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar front porch additions have been constructed in the area.

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

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio 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 floor area ratio variance was presented and moved by Ms. Albanese, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

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: May 19, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

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

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

