

MINUTES
ZONING BOARD OF APPEALS
May 21, 2008

MEMBERS PRESENT: PATRICIA CASTELLI
WILLIAM MOWERSON
NANETTE ALBANESE
DANIEL SULLIVAN
JOHN DOHERTY

ABSENT: NONE

ALSO PRESENT: Denise Sullivan, Esq. Deputy Town Attorney
Anne Marie Ambrose, Official Stenographer
Deborah Arbolino, Administrative Aide

This meeting was called to order at 7: 00 P.M. by Chairman William Mowerson.

Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEMS:

LIEROW
69.18 / 1 / 73; R-15 zone

POSTPONED

ZBA#08-23

ALUF PLASTICS
PERFORMANCE STANDARDS
70.18 / 2 / 15; LI zone

APPROVED
WITH CONDITIONS

ZBA#08-31

NEW ITEMS:

CARAMANTE
77.11 / 2 / 70; R-15 zone

SIDE YARD
VARIANCE APPROVED
AS MODIFIED

ZBA#08-44

VOUSTAS
74.07 / 1 / 5; CC zone

SIGN VARIANCE
APPROVED AS MODIFIED

ZBA#08-45

MC WILLIAMS
69.10 / 2 / 26; R-15 zone

CONTINUED

ZBA#08-46

KEETLY
69.17 / 1 / 62; R-15 zone

FRONT YARD
VARIANCE APPROVED

ZBA#08-47

VORENKAMP
78.18 / 1 / 22; R-22 zone

FLOOR AREA RATIO,
SIDE YARD, TOTAL SIDE YARD
AND BUILDING HEIGHT VARIANCES
APPROVED

ZBA#08-48

ORANGETOWN ANIMAL
HOSPITAL
70.14 / 4 / 21; LO zone

DECISION DEFERRED

ZBA#08-49

OTHER 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 application: Wyeth Site Plan- Building 215A Plans, Middletown Road, Pearl River, New York 68.08 / 1 / 1; LI zone; Wyeth Site Plan South Retention Basin Short Environmental Assessment Form Middletown Road, Pearl River, N.Y. 69.08 / 1/ 1; LI 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 11:40 P.M.

Dated: May 21, 2008

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

PERFORMANCE STANDARDS APPROVED

To: Donald Brenner (Aluf Performance Standards)

ZBA # 08-31

4 Independence Avenue
Tappan, New York 10983

Date: 4 / 2 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-31: Application of Aluf Plastics pursuant to Chapter 43, Section 4.1 and 10.334 for Use Subject to Performance Standards review with respect to additional manufacturing use. Premises are located at 3 Glenshaw Street, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 70.18, Block 2, Lot 15; LI zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, April 2, 2008 and May 21, 2008 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, and Bart Rodi, Engineer, appeared and testified.

The following documents were presented:

1. Plans Aluf Plastics (2 pages) dated June 23, 2006 latest revision date of Dec. 12, 2007, signed and sealed by Bart Rodi, P.E.
2. A letter dated March 3, 2008 from the County of Rockland Drainage Agency signed by Edward F. Devine, Executive Director.
3. A letter dated March 12, 2008 from Michael B. Bettman, Chief Fire Inspector, Town of Orangetown.
4. A letter dated March 4, 2008 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
5. A letter dated March 3, 2008 from the Department of Environmental Management and Engineering signed by Ronald Delo, P.E. Director.
6. A letter dated March 6, 2008 from County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
7. Gamma Machinery Operation Manuel Model 118H Coreless Winder.
8. TA-HD-55E-1000 & TA-HD-65E-1200 Machine Lines Installing Drawing.
9. Resume of Operations and Equipment dated May 19, 2008
10. Fire Prevention Supplement.
11. Zoning Board Decision #06-16 dated February 15, 2006
12. Short Environmental Assessment Form dated 5/19/08

At the meeting of April 2, 2008 Donald Brenner asked for a continuance to provide the Board with a resume of operation and fire supplement form and safety data sheets.

At the Meeting of May 21, 2008 Donald Brenner testified that this is really an application for an extension of performance standards because the operation is already taking place and the applicant is adding more machines.

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.

On the advice of Ms. Sullivan, Acting Attorney to the Zoning Board of Appeals, the Board determined that the proposed action is classified as an "unlisted action" as defined by Section 617.2 (ak) of the New York State Environmental Quality Review Regulations (SEQRR). No agency other than the Orangetown Zoning Board of Appeals will have any significant involvement in the Performance Standards Conformance Review process, pursuant to Section 617.6 of SEQRA. On motion by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Mr. Doherty, aye; Ms. Albanese, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Mowerson, aye; the Board declared itself as Lead Agency for Performance Standards Conformance Review.

The Orangetown Zoning Board of Appeals, as Lead Agency, determined that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared. The reasons supporting this determination are as follows:

It will not have a significant impact upon the environment and a DEIS will not be prepared because the proposed action does not significantly affect air quality, surface or ground water quality, noise levels, drainage or existing traffic patterns. In addition, it will have no impact upon the aesthetics, agricultural or cultural resources of the neighborhood and no vegetation, fauna or wildlife species will be affected as a result of the proposed construction. The proposed action is consistent with the Town's Master Plan and will not have any adverse economic or social impacts upon the Town of Orangetown.

On motion by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Mr. Doherty, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Mowerson, aye; the Board made a Negative Declaration.

The Board members made a personal inspection 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.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, the Board found and concluded that:

1. Based upon the information contained in applicants' Resume of Operations and Equipment, the Fire Prevention Supplement, Short Form Environmental Form, the letter of the Director of the Orangetown Department of Environmental Management and Engineering concluding there is no reasonable doubt as to the likelihood of applicant's conformance, 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 Code 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 Fire Safety Bureau; 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 performance standards variance was presented and moved by Mr. Mowerson, seconded by Ms. Albanese, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; Ms. Albanese, aye; and Mr. Sullivan, 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 21, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolin
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -L.P.

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

DECISION

SIDE YARD VARIANCE APPROVED AS MODIFIED

To: Michael and Victoria Caramante

ZBA # 08-44

15 Campbell Avenue
Tappan, New York 10983

Date: 5 / 21 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-44: Application of Michael and Victoria Caramante for a variance from Chapter 43, Section 3.12, R-15 District, Group M, Column 9 (Side Yard: 20' required, 10' proposed) for the installation of an above-ground pool at an existing single-family residence. The premises are located at 15 Campbell Avenue, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.11, Block 2, Lot 70; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 21, 2008 at which time the Board made the determination hereinafter set forth.

Victoria Caramante appeared and testified.

The following documents were presented:

1. Plot plan with hand drawing of the proposed pool.
2. One letter in support of the application.

On advice of Ms. Sullivan, Acting Attorney 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) Regulations which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Doherty, aye; Mr. Mowerson, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Sullivan, aye.

Victoria Caramante testified that she would like to install a 20' x 40' above ground pool; that the yard is only 90' wide; that she is requesting a ten foot side yard for the pool so that it does not take up the entire back yard; that she has a letter of support from the property owner closest to the proposed pool; that they are planning to install secure locked steps and pool alarms; that the swing set is set further down in the rear yard; that she and her husband have owned the house for six years; that they have three small children; and that she could move the pool over to provide a fifteen foot side 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.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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 as modified would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has moved the pool over five feet to provide a fifteen foot side yard.
2. The requested side yard variance as modified would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.
4. The requested side yard variance as modified is not substantial.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not

necessarily preclude the granting of the area variance.

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 as MODIFIED by moving the pool to provide a 15' side yard; 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 as modified to 15' was presented and moved by Mr. Doherty, seconded by Mr. Sullivan, and carried as follows: Ms. Albanese, aye; Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; Ms. Albanese, aye; and Mr. Sullivan, 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 21, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolin
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR –J.P./ M.M.

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

DECISION

SIGN VARIANCE APPROVED AS MODIFIED

To: Donald Brenner (Voutsas)

1 Independence Avenue
Tappan, New York 10983

ZBA # 08-45

Date: 5 / 21 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-45: Application of Tom Voutsas for a variance from Chapter 43, CC District, Section 3.11, Column 5 # 3 Signs: (40 sq. ft. permitted, 97 sq. ft. proposed) for a sign. Premises located at 512 Route 303, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.07, Block 1, Lot 5; CC zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 21, 2008 at which time the Board made the determination hereinafter set forth.

Gregory Kontas and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Two black and white copies of the proposed signs.
2. A letter dated May 21, 2008 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.

On advice of Ms. Sullivan, Acting Attorney 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) Regulations which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Doherty, aye; Mr. Mowerson, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Sullivan, aye.

Donald Brenner, Attorney, testified that Rockland County Planning Board always denies sign variances; that Mr. Kontas is the builder of these types of diners; that this is the standard sign for this type of diner; that this is the standard sign for this diner; that he has built 25 diners of this type in New Jersey; that he built one in West Germany and 45 in the United States; that sign variances have been granted on Route 303 for Toyota, Bill Kolb Ford and Lowes; and that the standing sign would be placed 30' from the property line, 51' from the pavement and 15' in front of the diner; that the sign is already

constructed; and if they have to eliminate parts of the sign they will.

Gregory Kontas testified that he is the builder; that this is the standard sign used for this type of diner; that the standing sign is necessary for people to see where the diner is located as they are driving on Route 303; that the sign is already built; and that he will reduce the size of the sign by removing the parts requested by the Board.

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.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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 sign variance as modified would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed modified sign shall be placed 30' from the property line and 15' from the building.
2. The requested sign variance as modified would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.
4. The requested sign variance as modified is not substantial.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested sign variance is **APPROVED** as **MODIFIED** by (1) blacking out the 4 ft round ball "New City" section of the proposed building sign; (2) removing the round ball "New City" section of the standing sign; (3) removing the "Restaurant" section of the standing sign; (3) the only part of the standing sign to remain is the light outline of the American Dream Diner section of the sign" (4) the extra background that held the ball and restaurant section of the sign together is to be removed and the new measurement of the sign shall be submitted to the Building Department; (5) the building sign shall be no more than 37 sq. ft. and the standing sign shall be no more than 40 s. ft.; 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.

Ms. Albanese made a motion to override the Rockland County Planning letter May 21, 2008 because the applicant has agreed to modify the sign; which motion was seconded by Mr. Doherty and carried unanimously.

The foregoing resolution to approve the application for the requested sign variance as modified was presented and moved by Ms. Albanese, seconded by Mr. Doherty, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; Ms. Albanese, aye; and Mr. Sullivan, 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 21, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY

TOWN CLERK
HIGHWAY DEPARTMENT
ASSESSOR
DEPT. of ENVIRONMENTAL
MGMT. and ENGINEERING

DECISION

FRONT YARD VARIANCE APPROVED

To: Trevor and Adrienne Keetley

194 Rockland Road
Pearl River, New York 10965

ZBA # 08-47

Date: 5 / 21 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-47: Application of Trevor and Adrienne Keetley for a variance from Chapter 43, Section 3.12, R-15 District, Group M, Column 8 (Front Yard: 30' required, 23' proposed) for a six-foot wall at a single-family residence. The premises are located at 194 Rockland Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.17, Block 1, Lot 62; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 21, 2008 at which time the Board made the determination hereinafter set forth.

Trevor and Adrienne Keetley appeared and testified.

The following documents were presented:

1. Hand drawing of the proposed wall.

On advice of Ms. Sullivan, Acting Attorney 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) Regulations which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Doherty, aye; Mr. Mowerson, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Sullivan, aye.

Trevor Keetley testified that he would like a six foot fence for the front yard because he has installed a pool and the six foot fence is safer than a four foot fence; that if he moved the fence 30' from the property line it would be four foot from the pool; that he is building the fence to match the cultured stone and stucco on the house; that the location of the proposed fence is ten feet from the pool and offers more privacy and safety.

Public Comment:

Charles Reina, 198 Rockland Road, testified that he is in favor of the plan presented to the Board; that Mr. Keetley has done a lot of work on the house and property and that it looks beautiful.

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.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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 would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
2. The requested front yard variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.
4. The requested front yard fence height variance is not substantial.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

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 fence height variance was presented and moved by Ms. Castelli , seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; Ms. Albanese, aye; and Mr. Sullivan, 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 21, 2008

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 –M.M.

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

DECISION

FLOOR AREA RATIO, SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Eric Vorenkemp

ZBA # 08-48

89 Washington Spring Road

Date: 5 / 21 / 08

Palisades, New York 10964

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-48: Application of Eric and Jaclyn Vorenkemp for variances from Chapter 43, Section 3.12, R-22 District, Group I, Columns 4 (Floor Area Ratio: .20 permitted, .263 proposed), 9 (Side Yard: 25’ required, 7.2’ existing and proposed no change), 10 (Total Side Yard: 60’ required, 21.5’ existing and proposed no change), 12 (Building Height: 5.4’ permitted, 16’ existing, 25.1’ proposed) for an addition to an existing single-family residence. The premises are located at 89 Washington Spring Road, Palisades, New York, and are identified on the Orangetown Tax Map as Section 78.18, Block 1, Lot 22; R-22 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 21, 2008 at which time the Board made the determination hereinafter set forth.

Eric and Jaclyn Vorenkemp and Margaret Fowler, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated February 14, 2008 signed and sealed by Margaret Fowler, Architect.
2. Interior and exterior pictures of the house.

On advice of Ms. Sullivan, Acting Attorney 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) Regulations which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Doherty, aye; Mr. Mowerson, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Sullivan, aye.

Eric Vorenkemp testified that they appeared before the Historic Board last week and were approved with the condition that they would return if the Zoning Board made any changes to the plan; that they are sensitive to the integrity of the area; that they have four grown children that come to visit; that they would like to add on to the house to be able to accommodate those visits; that the topography of the lot is the reason the height variance is needed; and that the addition was planned so that it would look like it was part of the original house.

Jaclyn Vorenkemp testified that they have owned the house for 4 ½ years; that the original house was built in the 1800's; and that there is a significant distance between their house and the neighbors house.

Margaret Fowler, Architect, testified that the proposed addition was kept as low as possible; that the existing bedrooms have only a 4.3 knee wall; that the master bedroom was cramped as evidenced by the pictures submitted; that this lot is smaller than the neighbors; that the neighbor to the east is approximately 100 feet away; that the addition is stepped back to maintain the integrity and keep the roof line; that the light sections are attic space; that the height variance is necessary because of the existing 7.2 side yard; that sheet A6 shows the slope and basement and that is where the height comes from; and that the topography causes the need for the height variance.

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.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, 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, side yard, total side yard and building height variances would not produce an undesirable change in the character of the

neighborhood or a detriment to nearby properties.

2. The requested floor area ratio, side yard, total side yard and building height variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested floor area ratio, side yard, total side yard and building height variances although substantial are the best feasible alternative to achieve the requested addition.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily 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, side yard, total side yard and building height variances 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, side yard, total side yard and building height variances was presented and moved by Mr. Doherty, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Ms. Albanese, 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 21, 2008

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

