

MINUTES
ZONING BOARD OF APPEALS
MAY 4, 2011

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

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

POSTPONED ITEM:

BAKKER 70.06 / 1 / 1; R-40 zone	FLOOR AREA RATIO, SIDE YARD, BUILDING HEIGHT & §5.151 VARIANCES APPROVED AS MODIFIED	ZBA#11-21
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NEW ITEMS:

MC CARTHY 68.19 / 3 / 37; R-15 zone	FLOOR AREA RATIO, SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#11-30
LINDQUIST 69.18 / 2 / 50; R-15 zone	FLOOR AREA RATIO, SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#11-31

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: 37 Ramland Road Wireless Telecommunication Facility Site Plan and Special Permit, 37 Ramland Road, Orangeburg,, N.Y., 76.08 / 1/ 6; LIO zone; Bradley Corporate Park Site Plan-Buildings 20, 21 & 22; 500 Bradley Hill Road, Blauvelt, N.Y., 70.06/1/50.4; LO zone; Saint Margaret's Church Site Plan, 34 North Magnolia Street, Pearl River, NY 68.19 / 2 / 27; RG zone; Lash Site Plan (critical environmental area), 260 South Boulevard, Upper Grandview, NY, 66.17 / 1 / 24; 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 8:30 P.M.

DECISION

0.165 FLOOR AREA RATIO, 15.2' SIDE YARD, 24' BUILDING HEIGHT AND ZONING (CHAPTER 43) §5.151 (116') VARIANCES APPROVED AS MODIFIED ZONING (CHAPTER 43) §5.153 VARIANCE REQUEST WITHDRAWN

To: Eric Bakker

ZBA # 11-21

10 Sgt. DeMeola Road
Blauvelt, New York 10913

Date: May 4, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 11-21: Application of Eric Bakker for variances from Chapter 43 (Zoning), Section 3.11, R-40 District, Group E, Columns 4 (Floor Area Ratio: .15 permitted, .166 proposed), 9 (Side Yard: 30' required, 13.2' proposed) 12 (Building Height: 18.5' permitted, 24' proposed); Section 5.151(Maximum house width: 100' permitted, 118' proposed) and from Section 5.153 (No accessory structure in front yard: shed in front yard) for an addition to an existing single family residence. The premises are located at 10 Sgt. DeMeola Road, Blauvelt, New York and are identified on the Orangetown tax Map as Section 70.06, Block 1, Lot 1.10; R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 4, 2011 at which time the Board made the determination hereinafter set forth.

Eric Bakker, Jay Greenwell, Land Surveyor and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Plot plan for garage addition dated 7/21/10 signed and sealed by Jay A. Greenwell, PLS,
2. Architectural elevations for proposed garage dated 1/4/10 signed and sealed by James Tanner, Architect dated 4/27/2011.
3. Bulk Regulations from previous addition by Jane Slavin, Architect.
4. A letter dated March 7, 2011 from the County of Rockland Department of Planning signed by Arlene Miller, Deputy Commissioner of Planning.
5. A letter dated March 8, 2011 from the County of Rockland department of Highways signed by Joseph Arena, Principal Engineering Technician.
6. A letter dated February 16, 2011 from the County of Rockland Department of Health, signed by Scott McKane, P.E. Senior Public Health Engineer.
7. A letter dated March 1, 2011 from the County of Rockland Sewer District No.1 signed by Joseph LaFiandra, Engineer II.

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

Donald Brenner, Attorney, testified that the sheds have been removed from the property and the floor area ratio request as advertized is correct at 0.166; that the Bakkers' have five cars and would like to garage them; that the additional garage space would be used for storage and that the area can be reduced by two feet increasing the side yard and lowering the floor area ratio request.

Eric Bakker testified that he and his wife have two young drivers in family; that they also have a recreational vehicle; that they are proposing the additional three car garage so that all of the vehicles can be garaged; that the extra space would be used for storage; that they have removed the sheds from the property and need the additional space for storage of pool and outdoor equipment; that the additional storage space would also be used for some of his business equipment; that he has a IT consulting company and does some items in the house; that he would not have a problem making the breezeway less wide and increasing the proposed side yard by two feet; and that he has spoken to his neighbors and shown them his proposal and no one has any objections; and that the neighborhood is very nice.

Jay Greenwell, Land Surveyor testified that the two on-site sheds have been removed from the property; that the length of the proposed garage can be shortened by two feet; that this changes the length of the house from the proposed 118 feet to 116 feet; that the side yard is increased from the proposed 13.2' to 15.2'; that the elimination of the sheds and the two feet from the proposed garage addition reduces the proposed floor area ratio to 0.165; and that the proposed height remains at 24'.

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, side yard, building height and § 5.151(maximum house width) variances as modified by reducing the garage by two feet 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 floor area ratio, side yard, building height and § 5.151 (maximum house width) variances as modified by reducing the garage by two feet, 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 floor area ratio, side yard, building height, and § 5.151 (maximum house width) variances as modified by reducing the garage by two feet, 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 floor area ratio, side yard, building height and § 5.151 (maximum house width) 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 (0.166), side yard (15.2'), building height (24') and § 5.151 (maximum house width: 116') variances as modified by reducing the garage by two feet was presented and moved by Mr. Mowerson, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, 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.

DECISION

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

To: Kim and Ken McCarthy

ZBA # 11-30

155 West Park Ave.

Date: May 4, 2011

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-30: Application of Kim and Ken McCarthy for variances from Chapter 43 (Zoning), Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .239 proposed), 9 (Side Yard: 20' required, 19.6' proposed) and 12 (Building Height: 19.6' permitted, 20'9" proposed) for an addition to an existing single-family residence. The premises are located at 155 West Park Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.19, Block 3, Lot 37; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 4, 2011 at which time the Board made the determination hereinafter set forth.

Kim and Ken McCarthy and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Site plan dated 3/15/2011 signed and sealed by Jane Slavin, Architect.
2. Architectural plans dated 3/8/2011 signed and sealed by Jane Slavin, Architect.

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

Kim McCarthy testified that she appeared before the Board last summer for a different proposal; that when they started to have contractors in to bid on the job, they realized that the plans were too ambitious; that they have withdrawn the previous application and are starting new with a slightly smaller and less expensive addition.

Jane Slavin, Architect, testified that the previous application was withdrawn on March 21, 2011; that the applicant got a refund for that building permit; that previously they were requesting a floor area ratio of .286, a side yard of 19.6' and a 23' building height; that the side yard request remains the same; that the building height request is slightly lower than the previous request at 20.9' and the floor area ratio request will be .239; that the lot is undersized at 12, 500 sq. ft.; and the proposed addition is with the planned budget and the house when complete will be 2,992 sq. ft..

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, side yard and building height 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 floor area ratio, 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. 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 floor area ratio, side yard and building height variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. 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 floor area ratio, 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 floor area ratio, side yard and building height variances was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, 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.

DECISION

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

To: Patrick Lindquist

ZBA # 11-31

56 Oldert Avenue

Date: May 4, 2011

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-31: Application of Patrick Lindquist for variances from Chapter 43 (Zoning), Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .22 existing, .24 proposed), 9 (Side Yard: 20' required, 15' existing and proposed) and 10 (Total Side Yard: 50' required, 30' existing and proposed) for an addition to an existing

single-family residence. The premises are located at 56 Oldert Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.18, Block 2, Lot 50; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 4, 2011 at which time the Board made the determination hereinafter set forth.

Patrick Lindquist and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Plot plan based on Survey by Ed Barbour (November 5, 1952 signed and sealed by Jane Slavin, Architect.
2. Architectural plans dated 9/7/2010 signed and sealed by Jane Slavin, Architect.

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

Jane Slavin, Architect, testified that the application is for a 208 sq. ft. addition of a front porch to an existing Colonial style house; that there are a number of houses in the area with front porches; that the lot is undersized at 2,125 sq. ft.; that the side yard and total side yard are existing conditions; that this proposal dresses up the house and gives the applicant a protected entrance into the 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.

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, side yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar front porches have been constructed in the area.
2. The requested floor area ratio, side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar front porches 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 floor area ratio, side yard and total side yard variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar front porches 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, side yard and total side yard 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, side

yard and total side yard variances was presented and moved by Ms. Albanese, seconded by Mr. Sullivan and carried as follows: Ms. Salomon, aye; Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, 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 4, 2011

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By _____
Deborah Arbolino

Administrative Aide

DISTRIBUTION:

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

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

