

MINUTES  
ZONING BOARD OF APPEALS  
November 3, 2010

MEMBERS PRESENT:        WILLIAM MOWERSON  
                                  JOAN SALOMON  
                                  NANETTE ALBANESE  
                                  DANIEL SULLIVAN  
                                  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

CONTINUED ITEM:

US INFORMATION SYSTEMS 68.20 / 1 / 1.10 LI zone	ILLUMINATED SIGNAGE APPROVED	ZBA#10-76
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NEW ITEMS:

ADLER 77.10 / 1 / 33; R-15 zone	FLOOR AREA RATIO, REAR YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#10-82
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SHAPIRO 70.06 / 1 / 50.2; R-40 zone	TOTAL SIDE YARD VARIANCE APPROVED	ZBA#10-83
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ACHESON 77.12 / 1 / 14; R-15 zone	SIDE YARD AND REAR YARD VARIANCES APPROVED	ZBA#10-84
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O'KEEFE 68.19 / 4 / 69; RG zone	FRONT YARD VARIANCE APPROVED	ZBA#10-85
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TRACEY SUBDIVISION 70.18 / 2 / 6; R-15 zone	STREET FRONTAGE VARIANCE FOR LOT #2 AND FRONT YARD VARIANCE FOR LOT # 1 RE-AFFIRMED	ZBA#10-86
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ORECCHIO 78.13 / 1 / 3.5; R-40 zone	RESERVED DECISION	ZBA#10-87
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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 applications: Mews at Pearl River, 21 East Central Avenue, Pearl River, N.Y., 68.16 / 6 / 62; PAC-CS zone; Quinn Subdivision and Site Plans; 3 Union Street, Sparkill, N.Y., 77.08 / 5 / 48; CS zone; Dominican Sisters Emergency Generator Plans, 175 Route 340, Sparkill, N.Y., 74.16 / 1 / 2.1; R-40 zone; Anda Realty LLC plan Review, 153 East Central Avenue, Pearl River, N.Y., 68.16 / 6 / 39; CS 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 10:45 P.M.

## DECISION

### **SIGN ILLUMINATION VARIANCE APPROVED**

To: Brian Levine (USIS Sign)

ZBA # 10-76

35 W. Jefferson Avenue  
Pearl River, New York 10965

Date: October 6, 2010  
November 3, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 10-76: Application of US Information Systems (Jefferson Group) for variances from Chapter 43 (Zoning), LI District, Section 3.11, Column 5 # 7 (Total Sign Area: 60 sq. ft. permitted, 98 sq. ft. proposed, illuminated portion shall not exceed 30 sq. ft., 77 sq. ft. proposed) for new signs at an existing business. The premises are located at 35 West Jefferson Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.20, Block 1, Lot 1./10; LI zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, October 6, 2010 and November 3, 2010 at which time the Board made the determination hereinafter set forth.

At the October 6, 2010 meeting Brian Levine, Robert Lagan and George Hamken appeared and testified.

The following documents were presented:

1. Survey dated September 12, 2008 by Anthony Celentano, P.L.S.
2. Three pages of pictures of the proposed signs.
3. A letter dated October 1, 2010 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
4. A letter dated October 6, 2010 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
5. A letter dated October 5, 2010 from the State of New York Department of Transportation signed by Mary Jo Russo, P.E., Rockland County Permit Engineer.

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) (7); 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.

Robert Lagan testified that they have been in the building for three years; that the building has two addresses, the gym and USIS; that they are proposing two signs for USIS, the logo on the building and spelling out US Information Systems on the stack wall along the handicap ramp; and that they would like a continuance to straighten out the confusion over the measurement of the signs.

At the meeting of November 3, 2010 the item was published as:

ZBA# 10-76: Application of US Information Systems (Jefferson Group) for variances from Chapter 43, LI District, Section 3.11, Column 5 # 7 (Total Sign Area: 60 sq. ft. permitted, illuminated portion shall not exceed 30 sq. ft., 41.5 sq. ft. illuminated proposed) for new signs at an existing business. The premises are located at 35 West Jefferson Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.20, Block 1, Lot 1./10; LI zone.

Brian Levine and Robert Lagan appeared and testified.

Robert Lagan testified that previously the entire background of the building sign was calculated into the measurement; that since then they met with the Director, John Giardiello and the individual letters were measured because they are boxed signs and they are individually lighted; that the new total size of the proposed signs is 41.5' and they are all illuminated; that the walkway sign measures 15.83 sq. ft. and will be illuminated and the variance is necessary because they would only be permitted 30 sq. ft. illuminated signs and they are requesting 41.5 sq. ft. of illuminated signage.

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. Albanese and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested sign area illumination variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar signs have been installed in the area.
2. The requested sign area illumination variance will not have an adverse effect or

impact on the physical or environmental conditions in the neighborhood or district. Similar signs have been installed 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 sign area illumination variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar signs have been installed 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 sign area illumination variance as modified is APPROVED and to override the letter dated October 6, 2010 from the County of Rockland Department of Planning ; 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 sign area illumination variance as modified and to override the letter dated October 6, 2010 from the County of Rockland Department of Planning was presented and moved by Ms. Albanese, seconded by Mr. Sullivan and carried as follows: Ms. Salomon, aye; Mr. Sullivan, aye;. Ms. Albanese, aye; and Mr. Mowerson, aye. Ms. Castelli was absent for this hearing.

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, REAR YARD AND BUILDING HEIGHT VARIANCES APPROVED**

To: Brian and Marisa Adler

ZBA # 10-82

250 Old Tappan Road  
Tappan, New York 10983

Date: November 3, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-82: Application of Brian and Marisa Adler for variances from Chapter 43 (Zoning), R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .24 proposed), 11 (Rear Yard: 35’ required, 14’ proposed), and 12 (Building Height: 14’ permitted, 30.4’ proposed) for an addition to an existing single-family residence. The premises are located at 250 Old Tappan Road, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.10, Block 1, Lot 33; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 3, 2010 at which time the Board made the determination hereinafter set forth.

Brian and Marisa Adler and Eric Oustatcher, Architect, appeared and testified.

The following documents were presented:

1. Site plan dated 9/24/10 signed and sealed by Kevin Brodie, Architect.
2. Architectural plans dated 7/19/10 with the latest revision date of 8/27/10 signed and sealed by Kevin Brodie, Architect.
3. A letter dated November 1, 2010 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
4. A letter dated October 29, 2010 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
5. Eight page illustrations of the property and the proposal.
6. A letter of support for the application signed by six abutting property owners.

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

Eric Oustatcher testified that Marisa grew up in this house; that she and Brian have four children; that the property has two hardships; that the first is that part of the property is in New Jersey and part is in New York; that the smallest portion of the property is in New York and that portion of the property holds the largest part of the house and garage; that the New York portion of the property also has a thirty foot wide sewer easement; that the proposed addition to the house is 268 sq. ft. addition on the second over the existing first floor; that there is an existing one car garage that they are proposing to add another bay onto; that the total size of the addition and garage is 561 square feet; that if all of the property were located in New York the proposed floor area ratio would be 13%; and that it is a modest addition.

Brian Adler testified that there are two garages on the property but one of them is not usable as a garage because it is not accessible; and that Grandma and Grandpa also live in 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. Albanese and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested floor area ratio, rear yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The shape of the lot is very odd and 60% of the property is located in New Jersey along with 40% of the house; that 40% of the property and 60% of the house is located in New York and the proposed addition is a modest 561 square feet, and the proposed height of the addition is not exceeding the height of the existing house.
2. The requested floor area ratio, rear yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The shape of the lot is very odd and 60% of the property is located in New Jersey along with 40% of the house; that 40% of the property and 60% of the house is located in New York and the proposed addition is a modest 561 square feet, and the proposed height of the addition is not exceeding the height of the existing house.
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, rear yard and building height variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The shape of the lot is very odd and 60% of the property is located in New Jersey along with 40% of the house; that 40% of the property and 60% of the house is located in New York and the proposed addition is a modest 561 square feet and the proposed height of the addition is not

exceeding the height of the existing house.

5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio, rear yard and building height variances are APPROVED with the Specific condition that the applicant secure a Rockland County Highway Department Work Permit; 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, rear yard and building height variances was presented and moved by Ms. Salomon, seconded by Mr. Sullivan and carried as follows: Ms. Castelli, aye; Mr. Sullivan, 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

**TOTAL SIDE YARD VARIANCE APPROVED**

To: Ron Shapiro

ZBA # 10-83

100 Leber Road  
Blauvelt, New York 10913

Date: November 3, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-83: Application of Ron Shapiro for a variance from Chapter 43 (Zoning), R-40 District, Section 3.12, Column 10 (Total Side Yard: 80' required, 66.1' proposed) for an addition to an existing single-family residence. The premises are located at 100 Leber Road, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.06, Block 1, Lot 50.2; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 3, 2010 at which time the Board made the determination hereinafter set forth.

Ron Shapiro and Steve Dimovski, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated August 15, 2010 signed and sealed by Paulette Dimovski, Architect.
2. A letter dated November 1, 2010 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
3. A letter dated October 29, 2010 from the County of Rockland Department of Highways signed by Sonny Lin, P.E.

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 Mr. Sullivan and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Ms. Castelli was absent for this hearing.

Ron Shapiro testified his parents sold their house in the Bronx and planned on moving to Pennsylvania; that because of health issues they will be moving in with his family; that they are adding a bedroom and living area on the east side of the first floor of the house for his parents so that they have some privacy away from his children; that the west side bump out is to fix an unsafe landing from the stairs; that presently the landing is only three feet wide and the door opens out onto it and it is not large enough; that his Dad already fell from it once and he wants to improve this for safety reasons before they move in; and that his parents will not have a kitchen of their own; that the kitchen will be shared.

Steve Dimovski, Architect, testified that the existing total side yard is 69.5' and with the additional three feet that they are adding to the platform on the west side of the house the total side yard is reduced to 66.5'; that the existing stairs and narrow landing need to be replaced and made safer; that the proposed addition is 750 sq. ft. with the wrap around porch; that the proposal is for a one story addition; that the property slopes in rear and the entrance on the wrap around porch affords an easily accessible outside space for Mr.



Shapiro's parents.

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. Albanese and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested total side yard variance 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 total side yard variance 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 a variance.
4. The requested total side yard variance, 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 total side 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 total side yard variance was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli was absent for this hearing.

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

### **SIDE YARD AND REAR YARD VARIANCES APPROVED**

To: Michael Acheson

ZBA # 10-84

44 Flitt Street

Date: November 3, 2010

Tappan, New York 10983

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 10-84: Application of Michael Acheson for variances from Chapter 43 (Zoning), R-15 District, Section 3.12, Group M, Columns 9 (Side Yard: 20' required, 10' proposed) and from Section 5.227 (Rear Yard for Swimming pool: 20' required, 9.6' proposed) for the installation of an in-ground pool at an existing single family residence. The premises are located at 44 Flitt Street, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.12, Block 1, Lot 14; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 3, 2010 at which time the Board made the determination hereinafter set forth.

Michael Acheson appeared and testified.

The following documents were presented:

1. Copy of site plan with pool location hand drawn.

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 Mr. Sullivan and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Ms. Castelli was absent.

Michael Acheson testified that he was before the Board two months ago with a plan that Anthony Sylvan drew up for the permit; that he was looking at the plan that is before the Board tonight and not the plan that Anthony Sylvan handed in for the permit; that he realized that the wrong plan was approved when he picked up the permit; that he immediately came back to the building department and that is how he ended up back in front of the Board; that this is the location that he wanted because it does not interfere with the drains or footing drains; that it is not under the Oak tree on the property; and it will not interfere with the existing fence; and that this location does not interfere or effect his neighbors property.

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. Salomon and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested side yard and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant's property is a corner lot with two front yards and a very small rear yard. The placement of the pool in this side yard is the least intrusive area to construct the pool and will not interfere with existing drainage on the property.
2. The requested side yard and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The applicant's property is a corner lot with two front yards and a very small rear yard. The

placement of the pool in this side yard is the least intrusive area to construct the pool and will not interfere with existing drainage on the property.

4. The requested side yard and rear yard variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The applicant's property is a corner lot with two front yards and a very small rear yard. The placement of the pool in this side yard is the least intrusive area to construct the pool and will not interfere with existing drainage on the property.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested side yard and rear 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 side yard and rear yard variances was presented and moved by Mr. Mowerson, seconded by Ms. Albanese and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli was absent for this hearing.

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

### FRONT YARD VARIANCE APPROVED

To: Daniel O'Keefe

ZBA # 10-85

46 S. Magnolia Street

Date: November 3, 2010

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-85: Application of Daniel O'Keefe for variances from Chapter 43 (Zoning), RG District, Group Q, Section 3.12, Column 8 (Front Yard: 25' required, 8' proposed) for an addition to an existing single-family residence. The premises are located at 46 S. Magnolia Street, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.19, Block 4, Lot 69; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 3, 2010 at which time the Board made the determination hereinafter set forth.

Ms. O'Keefe appeared and testified.

The following documents were presented:

1. Site plan not dated with proposed deck drawn on it.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Ms. Albanese 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 Mr. Sullivan and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Ms. Castelli was absent for this hearing.

Susan O'Keefe testified that they would like to build a small deck on the side of the house; that they were replacing windows and decided that it would be nice to have a second means of egress from the house; that the only access into the house is from the front door and putting a door and small deck in this area would give a second entry to the house; that her husband had hip surgery this year and they would like another exit from the house that does not require steps; and that this area is covered by trees and would interfere with the neighbors privacy.

#### 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. Albanese and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar decks and porches have been constructed in the area.
2. The requested front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar decks and 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 a variance.
4. The requested front yard variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar decks and 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 front yard variance is **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

**General Conditions:**

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

The foregoing resolution to approve the application for the requested front yard variance was presented and moved by Ms. Albanese, seconded by Ms. Sullivan and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli was absent for this hearing.

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: November 3, 2010

#### DECISION

#### **STREET FRONTAGE VARIANCE FOR LOT # 2 AND FRONT YARD VARIANCE FOR LOT #1 REAFFIRMED**

To: Donald Brenner

ZBA # 10-86

4 Independence Avenue  
Tappan, New York 10983

Date: November 3, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-86: Application of Tracey Subdivision to reaffirm variances granted on April 13, 2007 in ZBA#07-32: Application of Tracey Subdivision for variances from Chapter 43, Section 3.12, R-15 District, Group M, Columns 7 (Street Frontage: 75' required, 47.27' proposed for lot #2) and 8 (Front Yard: 30' required, 21' proposed for lot #1) of a proposed two-lot residential subdivision. Premises are located at 525 Western Highway, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.18, Block 2, Lot 6; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 3, 2010 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Minor Subdivision plan for Tracey dated September 20, 2006 signed and sealed by William Youngblood, P.C..

Mr. Mowerson made a motion that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning board acting as Lead Agency, pursuant to coordinated review under the State Environmental Quality Review Act Regulations 617.6 (b) (3); and rendered an environmental determination of **no** significant adverse environmental impacts to result from the proposed land use action (i.e., a “Negative Declaration” or “Neg Dec”), the ZBA is bound by the Planning Board’s Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations 617.6 (b)(3); which motioned was seconded by Mr. Sullivan and carried unanimously.

Donald Brenner, Attorney, testified that the Tracey subdivision received final approval in 2008; that Mr. Tracey did not file the subdivision map in 2008 because he did not have the \$9,000.00 for Parkland; that since then he has saved the money and paid the fees for Parkland; that Mr. Tracey is ready to file the subdivision map but needs to reaffirm the variances granted in 2007; that he has already appeared before the Planning Board and received final approval on September 15, 2010 subject to the reaffirmation of these variances.

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:

1. No significant change in circumstances has occurred since the variances were originally granted that would warrant Board reconsideration of their approval.
2. The applicant shall abide by all the conditions set forth in Zoning Board of Appeals Decision #07-32 dated April 13, 2007.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested to reaffirm the front yard variance for lot #1 and a street frontage variance for lot #2 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 to reaffirm the front yard variance for lot #1 and a street frontage variance for lot #2 was presented and moved by Ms. Salomon, seconded by Mr. Sullivan, and carried as follows: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Mowerson, aye; and Ms. Albanese, aye. Ms. Castelli was absent for this hearing.

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: November 3, 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 -N.A.

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



























