

MINUTES  
ZONING BOARD OF APPEALS  
OCTOBER 17, 2007

MEMBERS PRESENT:	DANIEL SULLIVAN WILLIAM MOWERSON NANETTE ALBANESE JOHN DOHERTY PATRICIA CASTELLI	
ABSENT:	NONE	
ALSO PRESENT:	Kevin Mulhearn, Esq. Anne Marie Ambrose, Deborah Arbolino,	Deputy Town Attorney Official Stenographer 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

<u>APPLICANTS</u>	<u>DECISIONS</u>	
<u>NEW ITEMS:</u>		
GIACHETTI 68.15 / 4 / 14; R-15 zone	FLOOR AREA RATIO, FRONT YARD, SIDE YARD TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED AS MODIFIED	ZBA#07-94
ALDERMAN 77.10 / 3 / 64; R-15 zone	SIDE YARD VARIANCE APPROVED	ZBA#07-95
BURNS 68.18 / 1 / 11; R-22 zone	FRONT YARD FENCE HEIGHT VARIANCE APPROVED	ZBA#07-96
ABDULLAH 74.11 / 2 / 12; R-22 zone	REAR YARD VARIANCE APPROVED	ZBA#07-97
ASCH 78.18 / 1 / 25; R-22 zone	FRONT YARD AND SIDE YARD VARIANCES APPROVED	ZBA#07-98
BUTERBAUGH 78.17 / 2 / 40; R-40 zone	SIDE YARD VARIANCE APPROVED	ZBA#07-99
HENRY 73.16 / 2 / 40; R-22 zone	FLOOR AREA RATIO, SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#07-100
LAMONT DOHERTY SIGN 80.10 / 1 / 2; R-80 zone	POSTPONED	ZBA#07-101

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 10:00 P.M.

Dated: October 17, 2007

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

**FLOOR AREA RATIO, FRONT YARD, SIDE YARD, TOTAL SIDE YARD AND  
BUILDING HEIGHT VARIANCES APPROVED AS MODIFIED**

To: Anthony and Lori Giachetti  
135 North Magnolia  
Pearl River, New York 10965

ZBA # 07-94  
Date: 10/17/ 07

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#07-94: Application of Anthony and Lori Giachetti for variances from Chapter 43, Section 3.12, R-15 District, Group M, ( Section 5.21 Undersized lot applies) Columns 4 (Floor Area Ratio: .20 permitted, .24 proposed), 8 ( Front Yard: 30' required, 25' proposed), 9 (Side Yard: 15' required, 11' proposed), 10( Total Side Yard: 30' required, 28' proposed). And 12 (Building Height: 20' permitted, 21.35' proposed) for an addition to an existing single-family residence. Premises are located at 135 No. Magnolia, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.15, Block 4, Lot 14 ; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 17, 2007 at which time the Board made the determination hereinafter set forth.

Anthony and Lori Giachetti and Kier Levesque, Architect, appeared and testified.

The following documents were presented:

1. Survey dated May 25, 2007 by Robert R. Rahnefeld, P.L.S.
2. Architectural plans dated June 18, 2007 signed and sealed by Kier B. Levesque, Architect.
3. Three letters from abutting property owners in support of the applicant.

On advice of Mr. Mulhearn, Attorney to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action under SEQRA regulations 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. Albanese, aye; Mr. Doherty, aye; and Mr. Mowerson, aye.

Anthony Giachetti testified that he and his wife have three children and another on the way; that they love the house and the neighborhood but need more room; that they have three children aged 8, 6, and 3 and one more on the way; that they are proposing to add a master bedroom, enlarge the kitchen and add a dining room; that they are also proposing a basement below the proposed addition; that the deck was existing when they purchased the house; and that the arbor could be removed.

Lori Giachetti testified that they have always had trouble in the front of the house with snow on the staircase and that was one of the reasons for changing the stairs.

Kier Levesque, Architect, testified that the entry to the house was brought forward to be even with the front of the house; that this permitted the addition of a closet and the covered entry; that the property is in the first house in the R-15 zone and that because of the topography of the lot the proposed basement is added onto the floor area ratio; that the original house was built into the front yard setback; that the basement adds 800 sq. ft. to the floor area ratio; that if the porch were removed the proposed floor area ratio would be 23 ½%; that the house to the south looks like this house with the addition; that the house to the north is a little larger and that the arbor was counted into the floor area and could be removed to bring the floor area ratio down to 21.5.

Public Comment:

Robert Hoyt stated that he lives across the street from the Giachetti's; that he lives in the exact same house and raised one daughter; that his house was busting with one child; that the Giachetti's need the room with four children; that they are very good neighbors; and that the proposal will improve the neighborhood.

Matt Henley stated that he lives on the south side of the Giachetti's; that he has added onto his house already; that they need the room because the houses are very small; and that they have a very large Italian family.

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. The requested floor area ratio, front yard, side yard, total side yard and building height variances as modified would 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, front yard, side yard, total side yard and building height variances 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 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, front yard, side yard, total side yard and building height variances is APPROVED AS MODIFIED by (1) removing the existing grape arbor in the rear yard, which will reduce the proposed floor area ratio to 21.5 and increase the total side yard to 28.5'; 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,

front yard, side yard, total side yard and building height variances as modified was presented and moved by Ms. Castelli, seconded by Ms. Albanese, 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: October 17, 2007

**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

**DECISION**

**SIDE YARD VARIANCE APPROVED**

To: Linda and Dennis Alderman  
60 Andre Avenue  
Tappan, New York 10983

ZBA # 07- 95  
Date: 10/17/ 07

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#07-95: Application of Linda and Dennis Alderman for a variance from Chapter 43, Section 3.12, R-15 District, Group M, Column 9 (Side Yard: 20' required, 12.9' existing and proposed) for an addition to an existing single-family residence. Premises are located at 60 Andre Avenue, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.10, Block 3, Lot 64; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 17, 2007 at which time the Board made the determination hereinafter set forth.

Linda and Dennis Alderman and Harvey Dyvik appeared and testified.

The following documents were presented:

1. Architectural plans dated May 21, 2007 signed and sealed by Robert Hoene, Architect.

On advice of Mr. Mulhearn, Attorney to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action under SEQRA regulations 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. Albanese, aye; Mr. Doherty, aye; and Mr. Mowerson, aye.

Dennis Alderman testified that the existing dinette area at the rear of the house has termite damage and needs to be repaired; that since that work had to be done they decided they should add a bathroom to the first floor of the house and take the laundry room out of the basement and add it to the first floor.

Linda Alderman testified that she has lived in this house all of her life; that the house has been owned by her family since 1935 and the addition was done to the house prior to that; that she checked with the Historic Society and found out that the house was built in 1855; and the proposed addition does not extend beyond what already exists.

Public Comment:

Peter Basanti, Andre Avenue, testified that he has added to his house already and is in support of his neighbors' proposal.

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. The requested side yard variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The side yard of 12.9' exists and the applicant is extending it to add a bathroom/laundry room to the first floor of the house.
2. The requested side 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.

**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**; 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 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: October 17, 2007

**ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN**

Deborah Arbolino  
Administrative Aide

**DISTRIBUTION:**

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

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

**DECISION**

**FRONT YARD FENCE HEIGHT VARIANCE APPROVED**

To: Andrew Burns  
6 Mendolia Court  
Pearl River, New York 10965

ZBA # 07-96  
Date: 10/17/ 07

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#07-96: Application of Andrew Burns for a variance from Chapter 43, Section 5.226, R-22 District, Group I, (Front Yard Fence Height: 4' permitted, 6' proposed) for a six-foot fence in a front yard at an existing single-family residence. Premises are located at Mendolia Court, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.18, Block 1, Lot 11; R-22 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 17, 2007 at which time the Board made the determination hereinafter set forth.

Andrew Burns appeared and testified.

The following documents were presented:

1. Survey with the fence drawn on it.
2. A letter in support of the application signed by three neighbors.
3. Thirteen pictures of the property and fence.

Andrew Burns testified that he put the fence up in July of 2004; that he installed it himself; that he did not know that his side yard was considered a front yard until he got the summons for the fence; that the fence is 13' from Pascack Road and 35' from the house; that he has two children aged eight and five; that the prior owner of the house was struck by a car when walking his dog; that Pascack Road is a very busy road; that there is also a stream about 30' south of his property which draws a lot of wildlife; that he has witnessed a black bear, coyotes, wild turkeys and deer; that the fence is a deterrent to keep them out of the back yard; that it also reduces the noise level from the road; that he maintains the property on the outside of the fence; that the fence was installed behind the existing trees along the road; and that it was an expensive fence and each panel cost was \$60.00; that if he had to remove the six-foot panels and put in four foot panels all of the posts would also need to be changed and the cost would be very high; and that he would really appreciate being able to keep the existing six foot fence.

On advice of Mr. Mulhearn, Attorney to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action under SEQRA regulations 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. Albanese, aye; Mr. Doherty, aye; and Mr. Mowerson, aye.

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. The requested front yard fence height variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.



The applicant has agreed to maintain the area outside of the fence to the edge of Pascack Road.

2. The fence is 9' off the road and constructed beyond the established trees along the heavily traveled road.
3. The requested front yard fence height variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
4. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested front yard fence height variance is APPROVED; with the CONDITION that the applicant maintain the area from the street to the side of the fence; 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.



and the city; that they purchased this house in 1992; that his children are older now with one in college and two more at home; that he and his wife have done a lot of work to the house; that they would like to use the rear yard for a nice deck for adult entertaining since the kids do not need use the yard anymore; and that they are requesting a larger deck so that the gas grill can be further away from the house because they had a fire from a grill once and his wife is very nervous about them.

On advice of Mr. Mulhearn, Attorney to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action under SEQRA regulations 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. Albanese, aye; Mr. Doherty, aye; and Mr. Mowerson, aye.

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. The requested rear yard variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar decks have been constructed in the area.
2. The requested rear yard variance 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.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested rear yard variance is **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

**General Conditions:**

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

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

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

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

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

The foregoing resolution to approve the application for the requested rear yard variance was presented and moved by Mr. Sullivan, 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: October 17, 2007

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 –J.P.

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

DECISION

**FRONT YARD AND SIDE YARD VARIANCES APPROVED**

To: Thane and Sheila Asch  
88 Washington Spring Road  
Palisades, New York 10964

ZBA # 07- 98  
Date: 10/17/ 07

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#07-98: Application of Thane and Sheila Asch for variances from Chapter 43, Section 3.12, R-22 District, Group I, Columns 8 (Front Yard: 40' required, 6.9' existing, 5' proposed) and 9 (Side Yard: 25' required, 9.8' proposed) for an addition to an existing single-family residence. Premises are located at 88 Washington Spring Road, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.18, Block 1, Lot 25; R-22 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 17, 2007 at which time the Board made the determination hereinafter set forth.

Mrs. Asch and Ernest Schlesinger, Real Estate Agent, appeared and testified.

The following documents were presented:

1. Survey dated June 20, 2007.
2. Zoning Board Decision #88-45 dated May 18, 1988.
3. A picture of the existing house with existing greenhouse.

On advice of Mr. Mulhearn, Attorney to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action under SEQRA regulations 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. Albanese, aye; Mr. Doherty, aye; and Mr. Mowerson, aye.

Mr. Schlesinger testified that 27 years ago the Asch's applied for a variance for the greenhouse; they were granted the variance but never closed out the permit; they did not get the final inspection and therefore did not get the certificate of occupancy for the greenhouse; now the house has been sold and money is being held in escrow until this is straightened out and a certificate of occupancy is issued.

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. The requested front yard variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The greenhouse variance was granted in 1988 and it was constructed shortly after the variance was granted.
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.

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 Mr. Mowerson, seconded by Mr. Sullivan, and carried as follows: Ms. Castelli, aye; Mr. Sullivan, aye; Mr. Mowerson, 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: October 17, 2007

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

**DECISION**

**SIDE YARD VARIANCE APPROVED**

To: Keith and Sarah Buterbaugh  
47 Closter Road  
Palisades, New York 10964

ZBA # 07-99  
Date: 10/17/ 07

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#07-99: Application of Keith and Sarah Buterbaugh for a variance from Chapter 43, Section 3.12, R-40 District, Group E, Column 9 ( Side Yard: 30’ required, 25.8’ existing, and 20.8’ proposed) for an addition to an existing single-family residence. Premises are located at 47 Closter Road, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.17, Block 2, Lot 40; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 17, 2007 at which time the Board made the determination hereinafter set forth.

Sarah Buterbaugh and Wayne Garrison, contractor appeared and testified.

The following documents were presented:

1. Architectural plans dated September 26, 2007 signed and sealed by Robert Silarski, Architect.
2. A letter dated September 6, 2007 from Rockland County Planning signed by Salvatore Corallo, Commissioner of Planning.
3. A letter dated September 5, 2007 from the Rockland County Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
4. A letter dated September 7, 2007 from the Rockland County Highway Department signed by Joseph LaFiandra.
5. Three letters in support of the application.

On advice of Mr. Mulhearn, Attorney to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action under SEQRA regulations 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. Albanese, aye; Mr. Doherty, aye; and Mr. Mowerson, aye.

Wayne Garrison testified that the applicant is proposing to add a family room and extend the bathroom and add a laundry room; that the northwest corner of the house exceeds the side yard setback requirements; and that is what causes the need for the variance.

Public Comment:

Matt Bartells a neighbor spoke in favor of the application.

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. The requested side yard variance would 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 side 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.

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; 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 was presented and moved by Ms. Castelli, seconded by Ms. Albanese, 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: October 17, 2007

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT	TOWN CLERK
ZBA MEMBERS	HIGHWAY DEPARTMENT
SUPERVISOR	ASSESSOR
TOWN BOARD MEMBERS	DEPT. of ENVIRONMENTAL
TOWN ATTORNEY	MGMT. and ENGINEERING
DEPUTY TOWN ATTORNEY	FILE,ZBA, PB
OBZPAE	CHAIRMAN, ZBA, PB, ACABOR
BUILDING INSPECTOR –B.vW.	

DECISION

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

To: Michael and Rebecca Henry	ZBA # 07-100
260 Betsy Ross Drive	Date: 10/17/ 07
Orangeburg, New York	

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#07-100: Application of Michael and Rebecca Henry for variances from Chapter 43, Section 3.12, R-22 District, Group I, Columns 4 (Floor Area Ratio: .20 permitted, .27 proposed), 9 (Side Yard: 25’ required, 21.3’ existing, 7.1’ proposed) and 10 (Total Side Yard: 60’ required, 56.4’ existing, 42.2’ proposed) for an addition to an existing single family residence.. Premises are located at 260 Betsy Ross Drive, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 73.16, Block 2, Lot 40; R-22 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 17, 2007 at which time the Board made the determination hereinafter set forth.

Michael Henry and Douglas Sibenaler, Architect appeared and testified.

The following documents were presented:

1. Architectural plans not dated or signed by Paul Douglas Siebenelar, Architect.
2. One letter in support of the application.

On advice of Mr. Mulhearn, Attorney to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action under SEQRA regulations 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. Albanese, aye; Mr. Doherty, aye; and Mr. Mowerson, aye.

Michael Henry testified that he would like to push out the back of the house; that he and his wife have two children and the house is getting tight; that they are planning to reconfigure some of the rooms and add a deck to the side of the house that borders town parkland; that he is planning to bring his parents up from Brooklyn to live with him; that he wants to add an extra bedroom for his parents; that he and his wife have owned the house for eight years; and that they would like to add the deck to the side of the house so that they will have a small backyard.

Douglas Siebenaler, Architect, testified that 2' could be removed from the right side of the house and 2' could be removed from the entire rear of the house to bring the floor area ratio down to .260; that 2' could be removed from the deck; and that the side yard would be 9.1' and the total side yard would be 44.2.

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. The requested floor area ratio, side yard and total side yard variances as modified would 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 total side yard variances 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 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 and front yard variances is APPROVED AS MODIFIED by (1) reducing the width of the house by 2' and depth be 2' resulting in a floor area ratio of .260; (2) reduce the deck be 2' changing the side yard to 9.1' and the total side yard to 44.2'; 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 as modified was presented and moved by Mr. Doherty, seconded by Ms. Albanese, 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: October 17, 2007

ZONING BOARD OF APPEALS

TOWN OF ORANGETOWN

Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
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FILE,ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR



















