

MINUTES
ZONING BOARD OF APPEALS
October 20, 2010

MEMBERS PRESENT: WILLIAM MOWERSON
 JOAN SALOMON
 NANETTE ALBANESE
 PATRICIA CASTELLI

ABSENT: DANIEL SULLIVAN

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

US INFORMATION SYSTEMS 68.20 / 1 / 1.10; LI zone	POSTPONED	ZBA#10-76
WAITKUS 77.10 / 1 / 41; R-15 zone	SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#10-77
CANTONE 70.06 / 1 / 1.7; R-40 zone	OWNER OCCUPIED SECOND DWELLING UNIT, §§ 4.52 4.54 AND 4.56 & 4.58 APPROVED WITH COVENANT	ZBA#10-78
KAHN 69.17 / 1 / 79; RG zone	FLOOR AREA RATIO AND SIDE YARD VARIANCE APPROVED	ZBA#10-79
PLOWE 78.18 / 1 / 10; R-80 zone	GRAVEL DRIVEWAY VARIANCE APPROVED	ZBA#10-80
DERMODY 70.07 / 1 / 5; R-40 zone	AMENDMENT APPROVED	ZBA#10-81

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: Beckerle Lumber Supply Company Site Plan Review, 219 Route 303, Orangeburg, New York, 74.15 / 1 / 15; LI zoning district; 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 9:00 P.M.

DECISION

SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: Brendan and Julie Waitkus

ZBA # 10-77

9 Hickory Hill Road
Tappan, New York 10983

Date: October 20, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-77: Application of Brendan and Julie Waitkus for variances from Chapter 43 (Zoning), R-15 District, Group M, Section 3.12, Columns 9 (Side Yard: 20' required, 17' proposed), and 10 (Total Side Yard: 50' required, 39' proposed) for an addition to an existing single-family residence. The premises are located at 9 Hickory Hill Road, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.10, Block 1, Lot 41; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 20, 2010 at which time the Board made the determination hereinafter set forth.

Julie Waitkus and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Plot plan dated 8/4/2010 signed and sealed by Jane Slavin, Architect.
2. Architectural plans dated 6/28/2010 by Jane Slavin, Architect.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Mr. Sullivan was absent.

Jane Slavin testified that the existing dwelling sit at an angle to the property line; that only a small portion of the proposed addition intrudes into the required side yard setback; that the portion of the proposed addition that juts into the setback is three foot section of the proposed master bedroom; that the master bedroom cannot be relocated because it is located behind the existing bedrooms in the house and works for the internal circulation of the house; and that the rest of the proposed addition that consists of a family room is completely in compliance with the code.

Julie Waitkus testified that she has owned the house for three and a half years.

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 side yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested side yard and total side yard variances are not substantial and will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar pools 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 side yard and total side yard variances are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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

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

ZONING CODE §§4.52, 4.54, 4.56 AND §4.58 VARIANCES APPROVED WITH COVENANT

To: Sal and Julie Ann Cantone

ZBA # 10-78

7 Sgt. Raymond DeMeola Drive
Blauvelt, New York 10913

Date: October 20, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-78: Application of Sal and Julie Ann Cantone for variances from Chapter 43 (Zoning), R-40 District, Section 3.11, refers to R-80 District, Column 2 #7 (Conversions of a detached, owner occupied, single-family dwelling to add I additional dwelling unit: 600 sq. ft. permitted, 977 sq. ft. proposed) and from §§ 4.52 (No significant exterior change in past 10 years), 4.54 (There shall only be a single front entrance: two proposed), 4.56 (House shall be fifteen years old), and 4.58 (Owner must reside in dwelling 15 years) for the addition of a second dwelling at existing single-family residence. The premises are

located at 7 Sgt. Raymond DeMeola Drive, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.06, Block 1, Lot 1.7; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 20, 2010 at which time the Board made the determination hereinafter set forth.

Julie Ann Cantone, John Quattrocchi, contractor, Gary Horowitz, Architect, appeared and testified.

The following documents were presented:

1. Survey dated July 27, 2010 signed and sealed by Anthony R. Celentano, PLS.
3. Architectural plans dated May 21, 201 signed and sealed by Gary Horowitz, Architect.
4. Seven letters from abutting property owners in support of the application.
5. A letter dated October 15, 2010 from Eliot Moshman, M.D.
6. A letter dated July 21, 2010 from Kenneth Zatz, M.D.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Mr. Sullivan was absent.

Gary Horowitz, Architect, testified that that Julie Ann's parents were planning to move into the house and her dad passed; that her mother has moved in and there is a need for a second kitchen because the Cantone's son has strict dietary needs; that he is extremely allergic to many foods and because of this the family keeps a vegan kitchen; that Julie Ann's mom has lost weight since moving in with them; and that the Cantone's want to stay in the house because they love the community and the services that are offered for their son in the school district.

Julie Ann testified that her son is easily excited and sometimes it is exhausting for her mom; that the separate kitchen would allow her mom to eat the normal diet that she is used to and stop her from losing more weight; that she had already lost 14 pounds since moving in with them; and that the front door would allow her mom to enter the house without her son being aware that she is there and give her mom some quiet time; and that her mom is a great help with her son and they want her to be comfortable; that they are planning on having a secure apartment for her mom that her son will not enter because of his severe food allergies; that they would like to install a Dutch door that would allow access and keep their son safe; that eventually they would have their son move into the apartment to transition to some sort of independence from them; and that they would have no problem filing a covenant with the Town regarding the restricted use of the apartment.

John Quattrocchi, contractor, testified that without the extra front door on the front porch Julie's mom would have to go out of the garage into the back yard and up the stairs into her living space.

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 Zoning Code §§ 4.52, 4.54, 4.56 and § 4.58 variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
2. The requested Zoning Code §§ 4.52, 4.54, 4.56 and § 4.58 variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has agreed to execute a covenant as contemplated by § 4.51, acceptable in form and substance to the Town Attorney, recorded in the County Clerk's office, proscribing that if the subject home is no longer occupied by any of the applicants, then the subject home automatically reverts to only one dwelling unit, plus restricting occupancy in the second dwelling unit be to immediate family members, to wit: father, mother, son, daughter, brother, sister and any parent or child of the applicants.
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 §§ 4.52, 4.54, 4.56 and § 4.58 variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The applicant has agreed to execute a covenant as contemplated by § 4.51, acceptable in form and substance to the Town Attorney, recorded in the County Clerk's office, proscribing that if the subject home is no longer occupied by any of the applicants, then the subject home automatically reverts to only one dwelling unit, plus restricting occupancy in the second dwelling unit be to immediate family members, to wit: father, mother, son, daughter, brother, sister and any parent or child of the applicants.
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 §§4.52,4.54, 4.56 & 4.58 variances are APPROVED with the SPECIFIC CONDITION; that the applicant execute a covenant as contemplated by § 4.51, acceptable in form and substance to the Town Attorney, recorded in the County Clerk's office, proscribing that if the subject home is no longer occupied by any of the applicants, then the subject home automatically reverts to only one dwelling unit, plus restricting occupancy in the second dwelling unit be to immediate family members, to wit: father, mother, son, daughter, brother, sister and any parent or child of the applicants; 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 Zoning Code §§ 4.52, 4.54, 4.56, & 4.58 variances was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Ms. Albanese, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Mr. Sullivan was absent.

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 AND SIDE YARD VARIANCES APPROVED

To: Mohamed Khan

ZBA # 10-79

56 South Middletown Road
Pearl River, New York 10965

Date: October 20, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-79: Application of Mohamed Khan for variances from Chapter 43 (Zoning), RG District, Group Q, Section 3.12, Columns 4 (Floor Area Ratio: .30 permitted, .37 proposed), 9 (Side Yard: 10' required, 7.7' existing, 9.6' proposed) for an addition to an existing two-family residence. The premises are located at 56 South Middletown Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.17, Block 1, Lot 79; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 20, 2010 at which time the Board made the determination hereinafter set forth.

Mohamed and Hadhesha Khan appeared and testified.

The following documents were presented:

1. Architectural plans dated August 30, 2010 signed and sealed by Kier Levesque, Architect.
2. Zoning Board of Appeals Decision #72-62 dated 6/7/1972.
3. A letter dated October 5, 2010 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician,
4. A letter dated September 21, 2010 from the County for Rockland Department of Health signed by Scott McKane, P.E..
5. A memorandum from Rockland County Planning from Eileen Miller.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms.Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Mr. Sullivan was absent.

Mohamed Khan testified that there is an existing 12' x 18' flat roof on this portion of the house that needs to be raised because it does not drain properly; that it is especially difficult for snow removal; that he is proposing an eight foot extension on the house in that area and would like approval before the roof is repaired; that this addition would extend the sitting room; that it is a 151 sq. ft. addition; and that the house is an existing two-family 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 and side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested floor area ratio and side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio and side yard variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar additions have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

General Conditions:

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

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

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

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

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not

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

The foregoing resolution to approve the application for the requested floor area ratio and side yard variances were presented and moved by Mr. Mowerson, seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Mr. Sullivan was absent.

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

GRAVEL DRIVEWAY VARIANCE APPROVED

To: Jon and Dana Plowe

ZBA # 10-80

49 Woods Road

Date: October 20, 2010

Palisades, New York 10964

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 10-80: Application of Jon and Dana Plowe for a variance from Chapter 43 (Zoning), R-80 District, Section 6.332 (Driveways must be paved: gravel proposed) for a driveway at an existing single family residence. The premises are located at 49 Woods Road, Palisades, New York, and are identified on the Orangetown Tax Map as Section 78.18, Block 1, Lot 10; R-80 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 20, 2010 at which time the Board made the determination hereinafter set forth.

Jon Plowe and William Bosley, contractor, appeared and testified.

The following documents were presented:

1. Survey dated 8/3/09 by Jay Greenwell, LLC.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Mr. Sullivan was absent.

Bill Bosley, contractor, testified that the new house was built 1 ½ years ago; that the Plowe's received their certificate of occupancy for the house without paving the driveway because they put \$10,000.00 in escrow; that the original plan was to pave the driveway; that they have since decided that they would like a gravel driveway because of drainage issues in the area and because it is more in keeping with the character of the neighborhood; that there are about 25 gravel driveways and two paved driveways in the neighborhood.

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 gravel driveway variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The majority of the houses in the area have gravel driveways.
2. The requested gravel driveway variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The majority of the houses in the area have gravel driveways.
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. The majority of the houses in the area have gravel driveways.
4. The requested gravel driveway variance is not substantial and will not have an adverse effect or impact on the physical or environmental conditions of the area. The majority of the houses in the area have gravel driveways.
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 gravel driveway 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 gravel driveway variance was presented and moved by Mr. Mowerson, seconded by Ms. Castelli and carried as follows: Ms. Salomon, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Mr. Sullivan was absent.

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

CHANGE TO APPROVED PLANS ACCEPTED

To: David Dermody

ZBA #10-81

833 Bradley Parkway

Date: October 20, 2010

Blauvelt, New York 10913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-81: Application of David Dermody for an amendment to the variance granted in ZBA#07-44: (15' Side Yard granted for a single story pool house), two story pool house built at an existing single- family residence. The premises are located at 833 Bradley Parkway, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.07, Block 1, Lot 5; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 20, 2010 at which time the Board made the determination hereinafter set forth.

David Dermody appeared and testified.

The following documents were presented:

1. Plans labeled "Proposed pool cabana for Dermody residence" with the latest revision date of October 22, 2007.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Mr. Sullivan was absent.

David Dermody testified that in May of 2007 he was approved for a one-story pool house; that he went to his architect and told him he wanted to make the cathedral ceiling into storage space; that he then dormered the 2nd floor and checked with Len Post and he said it was o-k; that he went to the architect and drew up new plans ; that a week later the new plans were in the file and he built the new pool house; that he had all of his inspections done and when he went to get his certificate of occupancy he was told that he could not build something different than what this Board approved; that he is back to straighten this out and get his c of o; that John Giardiello came out and measured the structure and it does not need a height variance; that it is set back 400 yards from the road and there is no public access to it.

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 change in the previously approved plans for which the side yard variance was granted will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The existing structure is bermed and landscaped and backs up to parkland.
2. The requested change in the previously approved plans for which the side yard variance was granted will not have an adverse effect or impact on the physical or

environmental conditions in the neighborhood or district. The existing structure is bermed and landscaped and backs up to parkland.

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 change in the previously approved plans for which the side yard variance was granted, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The existing structure is bermed and landscaped and backs up to parkland..
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 change in the previously approved plans for which the side yard variance was granted 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 change in the previously approved plans for which the side yard variance was granted was presented and moved by Ms. Albanese, seconded by Mr. Mowerson and carried as follows: Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Mr. Sullivan was absent.

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 20, 2010

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

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

