

MINUTES  
ZONING BOARD OF APPEALS  
October 21, 2009

MEMBERS PRESENT:       PATRICIA CASTELLI  
                                  WILLIAM MOWERSON  
                                  JOAN SALOMON  
                                  NANETTE ALBANESE

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 Chairman Mr. Mowerson.

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

FANSHAWE 69.17 / 2 / 21; R-15 zone	FLOOR AREA RATIO VARIANCE APPROVED	ZBA#09-68
SUN/ZHOA 78.18 / 2 / 12; R-80 zone	CONTINUED	ZBA#09-69
GASHI 64.19 / 1 / 28; R-22 zone	FLOOR AREA RATIO, FRONT YARD, SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED ACCESSORY STRUCTURE SHALL COMPLY WITH ZONING REGULATIONS	ZBA #09-70
INTERPRETATION WITH RESPECT TO BLAUVELT AUTO SPA 70.10 / 3 / 16; CC zone	POSTPONED	ZBA#09-71

THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

The verbatim minutes, as recorded by the Board's official stenographer for the above hearings, are not transcribed.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:30 P.M.

Dated: October 21, 2009

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 VARIANCE APPROVED**

To: John and Julie Fanshawe

ZBA # 09-68

106 Sparrow Lane  
Pearl River, New York 10965

Date: 10/ 21 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-68: Application of John and Julie Fanshawe for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, Group M, R-15 District, Column 4 (Floor Area Ratio: .20 permitted, .279 existing, .296 proposed) for an alteration of an existing deck and new covered open porch area at an existing single-family residence. The premises are located at 106 Sparrow Lane, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.17, Block 2, Lot 21; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 21, 2009 at which time the Board made the determination hereinafter set forth.

John Fanshawe and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Architectural plans dated 5/15/09 (2 pages) signed and sealed by Karl Ackerman, 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.

Donald Brenner, Attorney, testified that the Fanshawe's have owned their home since 1999; that they have four children; that the proposal would make the outdoor space more

usable for the family without increasing the footprint; that the proposal has no negative effect environmentally that the proposal is for the rear yard; that it is an upgrade for the neighborhood and there are mature trees in the rear of the house which will make the covered porch less visible to the neighbors to the rear.

John Fanshawe testified that the existing deck faces southeast and is constantly in the sun; that they utilize the deck all of the time and would like to add the roof to shield them from the sun; that the base of the deck is being shrunk to align with the house; and that architecturally it will be attractive.

Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested floor area ratio variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar covered porches/ decks have been constructed in the area.
2. The requested floor area ratio variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar covered porches/ decks 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 variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of 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 variance 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 variance was presented and moved by Ms. Salomon, seconded by Ms. Castelli, and carried as follows: Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, 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 21, 2009

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

**FLOOR AREA RATIO, FRONT YARD, SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED ACCESSORY STRUCTURE SHALL BE MOVED TO COMPLY WITH ZONING REGULATIONS**

To: Mithat and Meryeme Gashi

ZBA # 09-70

13 Bridge Road

Date: 10/ 21 / 09

Nanuet, New York 10954

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-70: Application of Mithat and Meryeme Gashi for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, R-22 District, Section 3.12, Group I, Columns 4 (Floor Area Ratio: .20 permitted, .26 proposed), 8 (Front Yard : 40' required, 38.6' existing), 9 (Side Yard: 25' required, 18' 10" proposed), 10( Total Side Yard: 60' required, 50' 10" proposed), 12 (Building Height: 24' permitted on left side, 29.6' proposed and 14.1' permitted on right side and 19' proposed) and from Section 5.153 (Accessory Structure Distance from the Principal Building: 15' required, 8.33' proposed for a three season room and master bedroom addition to an existing single family residence. The premises are located at 13 Bridge Road, Nanuet, New York, and are identified on the Orangetown Tax Map as Section 64.19, Block 1, Lot 28; R-22 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 21, 2009 at which time the Board made the determination hereinafter set forth.

Mithat and Meryeme Gashi and Frank Jakus, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 8/26/09 (3 pages) signed and sealed by Frank V. Jakus, Architect.
2. Four letters in support of the application.

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

Frank Jakus, Architect, testified that they are proposing to add two types of spaces to the house; that they are proposing a three season room off of the dining room and a master bedroom over the living space; that if the Board would turn to page A-1 it shows the existing deck and the re-use of the frame work for the three season room and the new proposed deck to the left; that A-3 shows the master bedroom addition supported by two walk-in closets; that this location is over the existing cathedral ceiling; that A-2 shows the palladium windows and elevation 4 shows the garage; that the existing house violates the set back requirements; that the lot is undersized; and that the shed can be moved to be in compliance.

Meryeme Gashi testified that they have four children aged 8, 5 and 3 year old twins; that she purchased the shed for storage and did not realize that she needed a permit for it; that it is not permanently located on a foundation and it can be moved; and that they really need more room.

Public Comment:

Anthony Medina, 11 Bridge Road, stated that the Gashi's are good neighbors; that they have a large family and need more room; and that he is in support 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.

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested floor area ratio, front yard, side yard, total side yard, and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to move the existing shed to comply with the Orangetown Zoning Code requirements for the R-22 Zoning District. 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 will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has agreed to move the existing shed to comply with the Orangetown Zoning Code requirements for the R-22 Zoning 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, front yard, side yard, total side yard and building height variances although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The applicant has agreed to move the existing shed to comply with the Orangetown Zoning Code requirements for the R-22 Zoning District.
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, front yard, side yard, total side yard, and building height variances are **APPROVED** with the **SPECIFIC CONDITION** that the applicant move the existing shed to comply with the Orangetown Zoning requirements for the R-22 Zoning District; 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 was presented and moved by Ms. Albanese, seconded by Ms. Castelli, and carried as follows: Ms. Salomon, aye; Ms. Albanese, aye; Ms. Castelli, 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 21, 2009

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













