

MINUTES
ZONING BOARD OF APPEALS
October 6, 2010

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

ABSENT: NONE

ALSO PRESENT: Dennis Michaels, Esq. Deputy Town Attorney
 Ann Marie Ambrose, Official Stenographer
 Deborah Arbolino, Administrative Aide

This meeting was called to order at 7: 00 P.M. by Mr. Mowerson, Chairman.

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEM:

ST. JOHN'S MALANKARA ORTHODOX CHURCH 73.20 / 1 / 31; LIO zone	USE VARIANCE APPROVED	ZBA#10-65
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POSTPONED ITEM:

BRENNAN 68.14 / 4 / 20; R-22 zone	REAR YARD VARIANCE APPROVED	ZBA#10-60
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NEW ITEMS:

SULLIVAN 70.09 / 3 / 58; R-40 zone	FRONT YARD VARIANCE APPROVED	ZBA#10-72
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SEEBACH 77.12 / 1 / 72; R-15 zone	SIDE YARD VARIANCE APPROVED	ZBA#10-73
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BENJAMIN 69.17 / 2 / 50; R-15 zone	REAR YARD VARIANCE APPROVED	ZBA#10-74
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TAPPAN FREE LIBRARY 77.11 / 3 / 65; CS zone	REAR YARD AND PARKING VARIANCES APPROVED	ZBA#10-75
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US INFORMATION SYSTEMS 68.20 / 1 / 1.10; LI zone	CONTINUED	ZBA#10-76
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OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of

actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following applications: Zugibe and Holt, In-ground pool site plan review located in a critical environmental area, 1 North Tweed Boulevard, Upper Grandview, N.Y., 70.08 / 1/ 5; R-40 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 10:30 P.M.

DECISION

APPROVED WITH CONDITIONS SEQRA "NEG DEC" APPROVED

To: Donald Brenner (St. John's Malankara Church)

ZBA # 10-65

4 Independence Avenue
Tappan, New York 10983

Date: October 6, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-65: Application of St. John's Malankara Orthodox Church of India for a variance from Chapter 43 (Zoning), LIO District, Section 3.11 refer to LO District, Column 2 (Use Not Permitted by Right) for the use of an unoccupied building as a church. The premises are located at 331 Blaisdell Road, Orangeburg, New York, and are identified on the Orangetown Tax Map as Section 73.20, Block 1, Lot 31; LIO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays September 1, 2010 and October 6, 2010 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, George Varghese, Contract Purchaser, John Plati, Owner, Joseph Scalfani, Listing Real Estate Agent, and Susan Hayes Real Estate Agent, appeared and testified.

The following documents were presented:

1. Architectural plans (3 pages) from Sapra Group Architects & Planners dated June 18, 2010 revised June 23, 2010 not signed or sealed.
2. A cover letter dated September 27, 2010 from Donald Brenner with the following attachments: Introduction and background, History of the contract purchaser, Procedure, Secondary Data, Conclusion, Exhibits I and II, and Appendix A,B,& C.
3. Short Environmental Assessment Form.
4. Notice of Settlement of Judgment Index No. 002946/10.
5. A letter dated September 7, 2010 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
6. A letter dated August 19, 2010 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner.
7. A letter dated August 26, 2010 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
8. A letter dated August 16, 2010 from the County of Rockland Drainage Agency signed by Shajan S. Thottakara, P.E..

9. A letter dated August 12, 2010 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
10. A letter dated July 28, 2010 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
11. A letter dated August 5, 2010 from Michael B. Bettmann, Chief, Bureau of Fire Prevention, Town of Orangetown.
12. Lead Agency sign-off dated 9/22/2010 from the Rockland County Planning Department signed by Eileen Miller.

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

At the meeting of September 1, 2010 Mr. Mowerson made a motion to declare the Zoning Board of Appeals Lead Agency, which motion was seconded by Ms. Salomon and carried unanimously. At this time the item was continued until the October 6, 2010 meeting, to permit the thirty days for notice of intent to declare itself lead agency

At the October 6, 2010 hearing George Varghese, contract purchaser, John Plati, owner, Sabhash Sapra, Architect, Joseph Scalfani, Real Estate Broker, Susan Hayes, Real Estate Agent, and Donald Brenner, Attorney, appeared and testified.

John Plati, owner of the property testified that he has not collected any rent on the property since 2005; that the taxes and mortgage are a burden and a hardship; and that the property is under foreclosure proceeding thru October 15, 2010.

George Varghese testified that presently the congregation shares the United Methodist Church on College Road; that they would like to own their own building; that this space would work perfectly for their congregation; that they have services every Sunday from 8 A.M. to 11:00 A.M. and one hour for Sunday School; that there is no regular activity during the week except for Feast Days and Religious holidays; and that the commercial kitchen would be removed.

Sabhash Sapra, Architect, testified that the interior changes include the removal of the existing commercial kitchen and showed the Board the interior plan for the Church.

Donald Brenner, Attorney, testified that the Rockland County Parish of St. John's Malankara Orthodox Church is part of the Malankara Orthodox Church of India; that the church derives lineage from St. Thomas (doubting Thomas) and is an Episcopal Church from an administrative perspective with a hierarchical structure; that there are approximately 42 families in the Parish and 95% of the members live in Rockland County; that a typical Sunday service has between 100 and 120 congregants and approximately 25 cars; that the main reason for buying the property at 331 Blaisdell Road is to allow more time for services and also to allow time for Sunday School classes for the children; that in order to qualify for a "Use Variance" it is necessary for the applicant to present the Zoning Board data that discloses that the existing zoning regulations and restrictions have caused Unnecessary hardship; Mr. Plati testified to his hardship in trying to collect rent from restaurant lessees; that this particular property is located several hundred feet north of the New Jersey State line which is residential; to the north by an existing commercial building and to the east by an existing commercial building; that the former restaurants and bars failed to prosper in the building; that the parcel has a land area of 0.923 acres with a minimum lot requirement of 2 acres; that the new user finds the parcel unique since it is in favorable location, bordering a County Road, that the building meets its specific needs and the location is in close proximity to the congregants' homes; that his change will in fact upgrade the area; that the building had the services from Town Sewer, Utilities-Electric and Gas from Orange & Rockland, United Water, Orangetown Police, Orangeburg Fire, South Orangetown Ambulance and that the existing facility has 47 parking spaces for a congregation composed of 42 families; that the criteria for a "Use Variance" has been met; and that the Religious Land Use and Institutional Persons Act recognizes that governments must accommodate religious institutions in seeking locations within a community.

Joseph Scalfani, Real Estate Agent for Prudential Joyce Realty testified that he has tried to sell the restaurant for 3 ½ years unsuccessfully; those potential customers did not like

the location and did not think that they could make enough money at this location to cover the mortgage and taxes.

Susan Hayes, real Estate Agent, Better Homes and Gardens, testified that the change in use would be an upgrade for the area compared to the existing vacant restaurant.

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.

The proposed action is classified as an “unlisted action” as defined by Section 617.2 (ak) of the New York State Environmental Quality Review Regulations (SEQRR). No agency, other than the Orangetown Planning Board will have any significant involvement in the review process, pursuant to Section 617.6 of SEQRA. On motion by Mr. Mowerson and seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye; the Board **declared itself Lead Agency**.

Pursuant to New York Code, Rules & Regulations (NYCRR) Section 617.7, the Town of Orangetown Planning Board, as lead agency, for the reasons articulated in this Board’s analysis of all of the submissions by the applicant, interested agencies, departments and the public, with respect to this project including the Environmental Assessment Form, which reasons are summarized in the motion, hereby determines that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared.

After having identified the relevant areas of environmental concern, namely drainage, surface water runoff, land clearing, vegetation, fauna, traffic and noise levels, and after having taken a hard look at said environmental issues, and after having deliberated regarding such concerns, and having heard from the applicant, the applicant’s professional representatives, namely Donald Brenner, P.E., LLB, and having heard from the following offices, officials and/or Departments: (Town of Orangetown): Office of Building, Zoning, Planning Administration and Enforcement and the Orangetown Bureau of Fire Prevention; and having heard from the following involved and interested agencies: Rockland County Department of Planning, Rockland County Department of Highways, Rockland County Drainage Agency, Rockland County Department of Health, Rockland County Sewer District No.1 and having reviewed a proposed Architectural plans by prepared by Sabhash Sapra, dated June 10, 2010 with the latest revision date of June 23, 2010, a summary of the reasons supporting this determination are, and the Zoning Board of Appeals finds that the proposed action:

Will not significantly affect existing air quality or noise levels; existing surface water quality or quantity or drainage; existing ground water quality or quantity; existing traffic levels;

Will not create a substantial increase in solid waste production or disposal;

Will not create a potential for erosion, flooding, leaching or drainage problems;

Will not have a significant adverse impact on the environmental characteristics of our critical environmental area or environmentally sensitive sites or features;

Will not have an impairment of the character or quality of important historical, archeological or architectural resources;

Will not have an impairment of the character or quality of important aesthetic resources;

Will not have an impairment of existing community or neighborhood character;

Will not remove or destroy large quantities of vegetation or fauna;

Will not remove or destroy large quantities of wildlife species or migratory fish;

Will not have a significant adverse impact to natural resources;

Is consistent with the Town of Orangetown’s Comprehensive/Master Plan;

Will not have adverse economic or social impacts upon the Town;
Will not create a hazard to human health; and
Will not create a substantial change in the use of land, open space or recreational resources.

On motion by Mr. Mowerson and seconded by Ms. Albanese and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Ms. Albanese, aye; and Mr. Mowerson, aye the Board **made a Negative Declaration pursuant to SEQRA.**

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 ZBA recognizes the favorable treatment afforded to religious institutions in the context of zoning regulations as dictated by Federal and State laws, and the flexible and accommodating approach such laws require of municipalities upon reviewing a religious group's land use application; and the ZBA finds that the potential adverse impacts to the public health, safety and welfare, that may be caused by the Church use (if any), are outweighed by the presumed benefits a religious institution provides to the community; and, therefore, consequently, the ZBA GRANTS and APPROVES the use variance application; however, the ZBA has not concluded, as part of this Decision, that the applicant has satisfied, or all, of the New York State Town Law § 267-b(2) statutory criteria for approval of a use variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested use variance is APPROVED with the SPECIFIC CONDITIONS: (1) Maintain the fire alarm and Fire Sprinkler systems as per NFPA 25 and NFPA 72 respectively, (2) Maintain Emergency Exit lights and lighting as per NEC, (3) Maintain Portable Fire Extinguishers as per NFPA10, (4) Provide keys for key box to Fire Inspector, (5) Repaint "No Parking Fire Zone Lanes"; 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 use variance was presented and moved by Ms. Albanese, seconded by Mr. Mowerson and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DECISION

REAR YARD VARIANCE APPROVED

To: John Brennan

ZBA # 10-60

50 Burdick Road

Date: October 6, 2010

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-60: Application of John Brennan for a variance from Chapter 43 (Zoning), R-22 District, Group I, Section 3.12, Column 11 (Rear Yard: 45' required, 36' proposed) for the addition of a deck to an existing single-family residence. The premises are located at 50 Burdick Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.14, Block 4, Lot 20; R-22 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 6, 2010 at which time the Board made the determination hereinafter set forth.

John Brennan appeared and testified.

The following documents were presented:

1. Survey with deck drawn onto it.
2. Deck plans.
3. A letter dated August 2, 2010 from the County of Rockland Department of Planning Salvatore Corallo, Commissioner of Planning.
4. A letter dated August 27, 2010 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.

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

John Brennan testified that the old deck on his house is a mess and needs to be replaced; that he would like to make the new deck larger; that he purchased his house in 1998 that the addition is shown on the site plan; that the lot is shaped like a trapezoid with a very narrow back yard; and that the new deck is proposed to run the length of the house and be 16' wide.

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 rear yard variance will 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 will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar 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 a variance.
4. The requested rear yard variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar decks 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 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 Ms. Albanese, seconded by Mr. Sullivan and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DECISION

FRONT YARD VARIANCE APPROVED

To: Lisa Sullivan

ZBA # 10-72

10 Colony Drive

Date: October 6, 2010

Blauvelt, New York 10913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-72: Application of Lisa Sullivan for a variance from Chapter 43 (Zoning), R-40 District, Group E, Section 3.12, Column 8 (Front Yard: 50' required, 45.6' proposed) for the addition of a portico to an existing single-family residence. The premises are located at 15 Colony Drive, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.09, Block 3, Lot 58; R-40 zone

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 6, 2010 at which time the Board made the determination hereinafter set forth.

Lisa Sullivan appeared and testified.

The following documents were presented:

1. Architectural plans (4 pages) signed and sealed by Margaret I. Fowler, Architect.

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

Lisa Sullivan testified that she would like to add a front portico to the house for a covering from the weather; that she has owned the house for seven years; and that almost every other house on the block has either a portico or a front porch

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar porticos have been constructed in the area.
2. The requested front yard variance will not have an adverse effect or impact on the

physical or environmental conditions in the neighborhood or district. Similar porticos have been constructed in the area.

3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested front yard variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar porticos have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

General Conditions:

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

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

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

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

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

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

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DECISION

SIDE YARD VARIANCE APPROVED

To: Allan and Ingeborg Seebach

ZBA # 10-75

382 Washington Street
Tappan, New York 10983

Date: October 6, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-73: Application of Allan and Ingeborg Seebach for a variance from Chapter 43, R-15 District, Group M, Section 3.12, Column 9 (Side Yard: 20' required, 10' proposed) for the installation of an above-ground pool at an existing single-family residence. The premises are located at 382 Washington Street, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.12, Block 1, Lot 72; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 6, 2010 at which time the Board made the determination hereinafter set forth.

Allan and Ingeborg Seebach appeared and testified.

The following documents were presented:

1. Survey with pool hand drawn onto it.

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

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

Allan Seebach testified that they would like to install an above-ground pool in their rear yard; that they have a ½ acre piece of property that has a fifty foot right-of-way and two decks in the rear of the house; that it wouldn't matter what side of the rear yard that placed the pool because either side would require a variance; that the chosen location requires a 10' side yard variance and places the pool five feet away from one of the decks.

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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar pools have been constructed in the area.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar pools have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested side yard variance, although substantial, 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 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 Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DECISION

REAR YARD VARIANCE APPROVED

To: Elizabeth Benjamin

ZBA # 10-60

52 Old Middletown Road
Pearl River, New York 10965

Date: October 6, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-74: Application of Elizabeth Benjamin for a variance from Chapter 43 (Zoning), R-15 District, Section 3.12, Group M, Column 11 (Rear Yard: 35' required, 31.8' existing, 26.8' proposed) for the addition of a wrap around deck at an existing single-family residence. The premises are located at 52 Old Middletown Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.17, Block 2, Lot 50; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 6, 2010 at which time the Board made the determination hereinafter set forth.

Elizabeth Benjamin appeared and testified.

The following documents were presented:

13. Survey with deck drawn on it by Robert Rahnefeld, P.L.S. dated January 13, 2004.
14. Five pages of deck plans signed and sealed by Samuel Jacob Rulli, P.E..

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

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

Elizabeth Benjamin testified that her house is a craftsman style house; that she is a gardener; that she would like to remove all of her windows on the existing enclosed porch and replace them with sliding doors to better enjoy the existing gardens; that in order to do this the doors need to step out onto an a landing and the Architect stated that the minimum width for a deck should be five feet; and that she has an existing rear yard of 31.8 and a proposed rear yard of 26.8'.

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 rear yard variance will 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 will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar 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 a variance.
4. The requested rear yard variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar decks 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 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. Mowerson, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DECISION

REAR YARD AND REQUIRED PARKING SPACE VARIANCES APPROVED

To: Jane Slavin (Tappan Library)

ZBA # 10-75

25 Greenbush Road
Orangeburg, New York 10962

Date: October 6, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-75: Application of Tappan Free Library Project for variances from Chapter 43 (Zoning), CS District, Group FF, Section 3.12, Column 11 (Rear Yard: 25' required, 11.4' existing, no change) and from Section 3.11, Column 6, refers to R-80 zone Column 6 # 3 (one (1) parking space per 200 square feet of gross floor area: 45.8 spaces required, 8 spaces existing, no change) for the merging of two buildings and a lot line merger. The Library is located at 93 Main Street, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.11, Block 3, Lot 65; CS zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 6, 2010 at which time the Board made the determination hereinafter set forth.

Jane Slavin, Architect, David Howe, Attorney, and Thano Schoppel, President, appeared and testified.

The following documents were presented:

1. Architectural plans (2 pages) not signed or sealed by Jane Slavin, Architect.
2. Color rendering by Jane Slavin, Architect.
3. Two page cover letter from Jane Slavin.
4. A letter dated September 28, 2010 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
5. A letter dated October 5, 2010 from the County of Rockland Department of Highways signed by Sonny Lin, P.E.,
6. Four pictures of the barn/parking area.

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

Mr. Mowerson made a motion that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency, pursuant to coordinated review under the State Environmental Quality Review Act Regulations §617.6 (b)(3); and since the Planning board conducted SEQRA review and on March 10, 2010, rendered an environmental determination of **no** significant adverse environmental impacts to result from the proposed land use action (i.e., a "Negative Declaration" or "Neg Dec"), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye.

Jane Slavin, Architect, testified that in 2005 the Library purchased the building to the south from Paul Melone; the barn building was operated as a store; that the foundation for the barn is unstable; that the plan is to raise the barn building and build a new foundation system; that in order to be out of the flood plain the building needs to be raised 42"; that new electric, plumbing and the building will meet all of the energy codes with the proper fire suppression system; that the two lots are being merged and the buildings will be connected with a ramp and handicap access; that the connection piece is really for circulation; that the 2nd floor elevation of the barn does not match the Library 2nd floor and the ramps will connect two spaces; that the circulation space addition is 393 sq. ft.; that the preservation of the barn is very important to the plan; that there is no change to the existing parking; and that they have met with the Rockland County Drainage Agency and they do not want to see the gravel spaces behind the barn paved because they don't want to add any more impervious surface to the area.

Thano Schoppel testified that the back portion of the building is 1,750 sq. ft., the main portion is 1,835 sq. ft.; that the stable was built in the early 20th century and it is important that it be saved; and that the purpose in this merging of the buildings is not to increase the current occupant load.

David Howe, Attorney, testified that the staff parks in the gravel area; that the goal is to create a safe building; that there are eight existing spaces and street parking; and that if they must they can arrange a lease with Dr. Forgas on the corner for 12 more parking spaces.

Public Comment:

Carol LaValle, 73 Main Street, Tappan and President of the Tappan Historic Society, testified that the Society supports this project and is looking forward to it moving forward; that the recent improvements by the County have helped the parking situation in the hamlet; that the sidewalks are a significant improvement and more and more people are walking in the area because of them; and that there is also additional parking available on Brandt Street.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested rear yard and parking requirement variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The historic significance of the existing barn structure; the favorable testimony concerning the addition of more impervious surface to the site from the Rockland County Drainage Agency; the improved sidewalks allow safer and more convenient pedestrian access to the Library; and the availability of additional off-site parking; were all important factors considered by the Board.
2. The requested rear yard and parking requirement variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The historic significance of the existing barn structure; the favorable testimony concerning the addition of more impervious surface to the site from the Rockland County Drainage Agency; the improved sidewalks allow safer and more convenient pedestrian access to the Library; and the availability of additional off-site parking; were all important factors considered by the Board.
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 rear yard and parking requirement variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The historic significance of the existing barn structure; the favorable testimony concerning the addition of more impervious surface to the site from the Rockland County Drainage Agency; the improved sidewalks allow safer and more convenient pedestrian access to the Library; and the availability of additional off-site parking; were all important factors considered by the Board.
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 rear yard and parking requirement 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 rear yard and parking requirement variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: October 6, 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

