

MINUTES
ZONING BOARD OF APPEALS
September 1, 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

AMENDMENT:

MC CARTHY 68.19 / 3 / 37; R-15 zone	BUILDING HEIGHT VARIANCE APPROVED	ZBA#10-58A
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NEW ITEMS:

BRENNAN 68.14 / 4 / 20; R-22 zone	POSTPONED	ZBA#10-60
ACHESON 77.12 / 1 / 14; R-15 zone	SIDE YARD VARIANCE APPROVED	ZBA#10-61
SKELLY 70.09 / 3 / 29; R-40 zone	CONTINUED	ZBA#10-62
VALENTINE 69.19 / 1 / 20; R-80 zone	FLOOR AREA RATIO, LOT AREA, LOT WIDTH FRONT YARD AND REAR YARD VARIANCES APPROVED	ZBA#10-63
ANDA REALTY 68.16 / 6 / 39; CS zone	SIDE YARD, TOTAL SIDE YARD AND REAR YARD VARIANCES APPROVED	ZBA#10-64
ST. JOHN’S MALANKARA ORTHODOX CHURCH 73.20 / 1 / 31; LIO zone	CONTINUED	ZBA#10-65

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: St Thomas Aquinas College Site Plan, 280 Route 340, Sparkill, NY 74.20 / 1 / 2; Lo zone; Rockland Conservatory of Music Plan; Change of Use; 45 South Main Street, Pearl River, NY 68.20 / 1 / 45; CO zone; Comito Construction Company Subdivision Plan- 2 lots, West side of Route 340, 150 feet south of the intersection of Oak Tree Road, 762 Route 340, Palisades, NY, 77.20 / 1 / 19; R-15 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 10:10 P.M.

DECISION

BUILDING HEIGHT VARIANCE APPROVED

To: Ken and Kim McCarthy

ZBA # 10-58A

155 West Park Avenue

Date: September 1, 2010

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-58A: Application of Ken and Kim McCarthy for an amendment to ZBA#10-58 which approved variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .286 proposed) and 9 (Side Yard: 20' required, 19.6' proposed) and to add the following additional variance: Column 12 (Building Height: 19.6' permitted, 23' proposed) for an addition to an existing single-family residence. The premises are located at 155 West Park Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.19, Block 3, Lot 37; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 1, 2010 at which time the Board made the determination hereinafter set forth.

Kim McCarthy appeared and testified.

The following documents were presented:

1. Architectural plans dated April 12, 2010 (2 pages) signed and sealed by Robert Hoene, Architect.
2. A petition in support of the application signed by five abutting property owners.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of

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

Kim McCarthy testified that the plans are the same plans that the Board reviewed and approved at the last meeting; that there was an oversight and the building height variance was not asked for at the last meeting; that the proposed height is not out of character for the area; that her house is the smallest house on the block; and that they are requesting a 3 ½' variance for the height.

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

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested building height 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 building height variance was presented and moved by Ms. Albanese, 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

SIDE YARD VARIANCE APPROVED

To: Michael Acheson

ZBA # 10-61

44 Flitt Street

Date: September 1, 2010

Tappan, New York 10983

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-61: Application of Michael Acheson for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, R-15 District, Group M, Column 9

(Side Yard: 20' required, 11' proposed) for the installation of an in-ground pool at an existing single-family residence. The premises are located at 44 Flitt Street, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.12, Block 1, Lot 14; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 1, 2010 at which time the Board made the determination hereinafter set forth.

Michael Acheson appeared and testified.

The following documents were presented:

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

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Ms. 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: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye.

Michael Acheson testified that he would like to install an in-ground pool at this house; that his property has two front yard; that he needs a 20' side yard but there is no where on his property that the pool would fit without a variance; that if he placed the pool in the rear yard he would have approximately two feet to the property line; that there is a 8' x 10' shed on the property; that the pool will be about 90 to 100 feet from the neighbors house; and that there is an existing six foot fence on the side of the house where the pool is proposed.

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 Mr. Sullivan 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. The applicant's property is a corner lot with two front yards and a very small rear yard. The placement of the pool in this side yard is the least intrusive area to construct the pool.

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. The applicant's property is a corner lot with two front yards and a very small rear yard. The placement of the pool in this side yard is the least intrusive area to construct the pool.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The applicant's property is a corner lot with two front yards and a very small rear yard. The placement of the pool in this side yard is the least intrusive area to construct the pool.
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. The applicant's property is a corner lot with two front yards and a very small rear yard. The placement of the pool in this side yard is the least intrusive area to construct the pool.
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 side yard variance was presented and moved by Mr. Sullivan, 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

FLOOR AREA RATIO, LOT AREA, LOT WIDTH, FRONT YARD AND REAR YARD VARIANCES APPROVED; SECTION 5.21 A; UNDERSIZED LOT APPLIES

To: Paul and Nancy Valentine

ZBA # 10-63

20 Buttonwood Place

Date: September 1, 2010

Blauvelt, New York 10913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 10-63: Application of Paul and Nancy Valentine for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, R-80 District, Group A, Section 3.12, Columns 4 (Floor Area Ratio: .10 permitted, .27 proposed), 5 (Lot Area: 80,000 sq. ft. required, 9,116 sq. ft. existing), 6 (Lot Width: 150’ required, 95’ existing), 8 (Front Yard: 50’ required, 21’ proposed), 11 (Rear Yard: 50’ required, 33’ proposed) and (Section 5.21A Undersized lot applies to Side Yard & Total Side Yard) for the construction of a new single family residence. The premises are located at 157 Blue Hill Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.19, Block 1, Lot 20; R-80 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 1, 2010 at which time the Board made the determination hereinafter set forth.

Paul Valentine and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 5/3/2010 signed and sealed by Jane Slavin, Architect.
2. A letter dated August 2, 2010 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner.
3. A letter dated July 28, 2010 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
4. A letter dated July 8, 2010 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
5. A vicinity map showing the zoning in the area.
6. Three pictures of the existing structure.

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.

Jane Slavin testified that the existing house is falling apart; that it is not structurally sound and it would cost more to repair it than to remove it and build a new house; that the property is very small and looks like it was carved out of the golf course property; that the small area in the rear of this property is zoned R-40 and the surrounding properties are R-15 average density zoning; that the proposed house is also a cottage style house 1 ½ stories; that several of the requested variances are for existing conditions, such as the lot size and lot width; that the existing house consists of three rooms and is 770 sq. ft.; that the proposal is for a small house; and that if there is a problem with the right-of-way and the house needs to be moved back, they will return to the Board.

Mr. Valentine testified that he purchased the property to refurbish the house for his daughter; that the house is rooted beyond repair; that he purchased the property one year ago; that the proposed house is small with an open floor plan and a lost bedroom upstairs.

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 Mr. Sullivan 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, lot area, lot width, front yard and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicants' property is extremely undersized for the R-80 zone and is surrounded by an R-15 zone; the existing structure is not worth saving and the new house will enhance the neighborhood.
2. The requested floor area ratio, lot area, lot width, front yard and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicants' property is extremely undersized for the R-80 zone and is surrounded by an R-15 zone; the existing structure is not worth saving and the new house will enhance the neighborhood.

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, lot area, lot width, front yard and rear yard variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The applicants' property is extremely undersized for the R-80 zone and is surrounded by an R-15 zone; the existing structure is not worth saving and the new house will enhance the neighborhood.
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, lot area, lot width, rear yard and front 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, lot area, lot width, rear yard and front yard variances was presented and moved by Ms. Castelli, 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

MOTION TO APPROVE FAILED TO CARRY: DEEMED DENIED

To: Anda Realty LLC

ZBA # 10-26

Edna McCormack
37-37 9th Street
LIC, N.Y. 11101

Date: April 21, 2010
June 16, 2010
July 7, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-26: Application of Anda Realty LLC for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, CS District, Group FF, Section 3.12, Columns 9 (Side Yard: 0/12' required, 5' proposed), 10 (Total Side Yard: 0/25' required, 10' proposed), 11 (Rear Yard: 25' required, 10' proposed) and from Section 9.34 (Expansion of Non-Conforming Bulk) for the addition of a two-car garage at an existing two-family residence. The premises are located at 153 East Central Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.16, Block 6, Lot 39; CS zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on the following Wednesdays, April 21, 2010, June 16, 2010 and July 7, 2010, at which time the Board made the determination hereinafter set forth.

The following documents were presented:

1. Architectural plans dated 7/7/09 signed and sealed on 1/25/10 by James Tanner Architect (2 pages).
2. Site plan revised January 18, 2010, signed and sealed by James Tanner, Architect.
3. A letter dated April 19, 2010 from County of Rockland, Department of Planning, signed by Salvatore Corallo, Commissioner of Planning.
4. A letter dated April 19, 2010 from County of Rockland, Department of Highways, signed by Joseph Arena, Principal Engineering Technician.
5. A letter dated April 6, 2010 from County of Rockland Sewer District No. 1, signed by Joseph LaFiandra, Engineer II.
6. A letter dated March 15, 2010 from County of Rockland Drainage Agency, signed by Edward F. Devine, Rockland County Drainage Agency.
7. A memorandum dated July 6, 2010 from John Giardiello, Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.

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

At the April 21, 2010 meeting, Liam McCormack and Edna McCormack, owners, appeared and testified that they would like to expand the garage to a two car garage at the existing two-family residence. The applicants stated that they collect cars and need to store the collector cars. That the site contains an existing building that contains two residential apartments and an office, and that it is an open lot with a yard.

Public Comment:

Karl Ackerman, 159 E. Central avenue, Pearl River, New York; stated he did not receive an abutting letter for this meeting. Mr. Ackerman has concerns about the application; and that the prior owner expanded a single apartment 2 years ago and the property was sold to a new construction company; and that the property has an existing substandard sized driveway; that the trucks using the driveway straddle his driveway; and that the garage should be made smaller.

Susan Perzigian, 138 E. Washington Avenue, stated that she lives behind the garage and that she is upset over the size; and that there are commercial vehicles backed up to her fence.

At the June 16, 2010 meeting, Liam McCormack and Edna McCormack, owners, Donald Brenner, Attorney, appeared and testified.

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c)(7); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Mr. Sullivan was absent.

Donald Brenner, Attorney, testified that the application was before the Board about a month ago; that the original design has been cut back; that they have removed four feet from the depth of the garage and two feet from its width; that they will plant additional evergreen plants in the rear of the garage; that this property is located in a CS zone and because of that can by right have a 0' side yard; that the garage would be used in conjunction with the existing office space which is permitted in the CS zone; that the garage would be used to store vintage cars; that they are not reducing the parking for the residential use in the building; that there is enough parking for the office ; that no vehicle repair work would be done on this site; that they are willing to put up a temporary or permanent railing along the drive to protect the neighbors property; and that they would like to request a continuance for clarification of the denial.

Public Comment:

Jim Russell, 144 E. Washington Avenue, testified that he owns the property directly behind the applicant; that he spoke to Edna and originally indicated that it was not an issue but it looks bigger than he expected; that he does not have problem with the distance, his problem is with the size; that it is very high and looks like it could have lift installed; that could lead to refurbishing of vehicles; and the height of the one bay is a real concern.

Karl Ackerman, 159 East Central Avenue, testified that this is a commercial expansion and it is an S-2 and needs to be looked at; that he has concerns regarding the property line, the use of the structure lights at night, and issues with the construction vehicles; that there is no room for him to enter the property; that this application should be going for performance standards; that this project requires a 25' buffer; that the project should not go forward; that the application does not look official; that the property line is split at the wall; and this property has been expanded already.

Susan Perzigian, 138 E. Washington Avenue, testified that she is a neighbor in the rear; that she has a problem with the size of the building; that the evergreens in the area are 10'

tall; and the large structure will change the character of the neighborhood.

At the July 7, 2010 meeting Donald Brenner, Attorney and Enda McCormack

Donald Brenner, Attorney testified that Mr. Giardiello’s letter clarified the questions that were asked at the last hearing regarding the expansion of a non-conforming use; that he brought with him an affidavit as requested in the letter indicating that the use of the garage is accessory to the commercial user of the property; that as the letter states the applicant would need to go to the Planning Board and ACABOR if they are granted the side yards and rear yard variances that are needed for the garage.

Edna McCormack testified that both his an his brother’s wife work at the office in Pearl River; that they also have another office in Long Island City; that they purchased this property to have an office closer to home for their wives to work from; and that they will install a fence along the driveway during construction.

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.

A motion to approve the application for the requested 7’ side yard, 12’ total side yard, and 14’ rear yard variances as amended was presented and moved by Mr. Mowerson, seconded by Ms. Salomon, and FAILED TO CARRY (deemed denied) as follows: Ms. Albanese, nay; Ms. Salomon, aye; and Mr. Mowerson, aye. Ms. Castelli and Mr. Sullivan were 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: September 1, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By _____
Deborah Arbolino

Administrative Aide

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