

MINUTES
ZONING BOARD OF APPEALS
September 17, 2008

MEMBERS PRESENT: PATRICIA CASTELLI
 WILLIAM MOWERSON
 DANIEL SULLIVAN
 NANETTE ALBANESE

ABSENT: JOHN DOHERTY

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

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

STANTON/SIEGRIEST
69.10 / 1 / 27; R-15 zone

FLOOR AREA RATIO, ZBA#08-82
BUILDING HEIGHT, AND
ACCESSORY DISTANCE VARIANCES
DENIED

SOAP & PAPER FACTORY
PERFORMANCE STANDARDS
77.16 / 1 / 32; LIO zone

PERFORMANCE STANDARDS ZBA#08-83
APPROVED WITH CONDITIONS

OSSMAN
69.05 / 2 / 44; R-15 zone

FLOOR AREA RATIO, ZBA#08-84
FRONT YARD AND BUILDING HEIGHT
VARIANCES APPROVED

SHEEHAN
69.17 / 5 / 32; R-15 zone

SIDE YARD AND §5.227 ZBA#08-85
REAR YARD VARIANCES APPROVED

EGAN
69.08 / 1 / 4.3; R-40 zone

CONTINUED ZBA#08-86

TRAYNOR
64.20 / 1 / 5.3; R-40 zone

CONTINUED ZBA#08-87

ROYAL
77.06 / 3 / 33; R-15 zone

FLOOR AREA RATIO, TOTAL ZBA#08-88
SIDE YARD VARIANCES APPROVED

OTHER BUSINESS:

The Board discussed procedure for making decisions on Public Hearings. The Board took an informal survey on other Zoning Board of Appeals (Ramapo, Clarkstown, Highlands, Haverstraw, and Tuxedo) in the area regarding how and when decisions are rendered on Public Hearings. Several municipalities make decisions on a case by case basis; several others sometimes make decisions at the end of a hearing and sometimes wait until the end of the evening if the item is difficult or controversial. The town of Clarkstown makes their decisions at the next hearing date. After a lengthy discussion the Board decided to

continue making decisions after hearing all of the hearings for the evening; several reasons were stated for continuing this procedure: (1) All applicants are invited to stay for the decisions or to call the clerk in the morning; any anxious applicant will remain for the decision and as a courtesy their decision will be made before decisions for which the applicant is not present; (2) Hearing all of the applicants first permits the Board the time necessary to deliberate over difficult decisions without holding up other applicants; (3) Hearing all applicants before making decisions stops applicants from comparing one application and its outcome to the next applicant and its outcome.

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.

Dated: September 17, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
ASSESSOR
HIGHWAY DEPARTMENT
SUPERVISOR
TOWN BOARD MEMBERS
BUILDING INSPECTOR (Individual Decisions)
DEPT. of ENVIRONMENTAL MGMT. and ENGINEERING
Rockland County Planning

DECISION

**FLOOR AREA RATIO, BUILDING HEIGHT, AND ACCESSORY STRUCTURE
DISTANCE VARIANCES DENIED**

To: John Siegriest

ZBA # 08-82

71 Camp Hill Road

Date: 9 / 3 / 08

Pomona, New York 10970

9 / 17 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-82: Application of Douglas Stainton & John Siegriest for variances from Chapter 43, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .255 proposed), 12 (Building Height: 20' permitted, 22.33' proposed) and from Section 5.153 (Accessory Structure Distance from Principal Building: 15' required, 11' & 14.5' is proposed to existing garage) for a renovation and addition to a single-family residence. The premises are located at 21 Casazza Place, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.10, Block 1, Lot 27; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, September 3, 2008 and September 17, 2008 at which time the Board made the determination hereinafter set forth.

John Siegriest and Douglas Stainton appeared and testified.

The following documents were presented:

1. Architectural plans dated July 22, 2008 signed and sealed by Harold Goldstein, Architect.
2. Survey dated April 9, 2008 signed and sealed by Robert Rahnefeld, L.S..
3. Three letters in support of the application from neighbors.
4. Key considerations/Factors for Area Bulk Variances with attachments.

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

At the September 3, 2008 hearing John Siegriest testified that the existing house is a ranch style house in disrepair; that they are proposing to remove the house and use the foundation to rebuild a 2,400 sq. ft. house in its place; that they would be extending the footprint out back to add a utility room, mudroom and family room; that the existing house is only 1,000 sq. ft.; that there is no basement; that they purchased the property in June; and they would like a continuance so that the publication can be corrected to include the request for a height variance.

At the September 17, 2008 hearing John Siegriest testified that the current house is 1,000 sq. ft. and the proposed house is 2,400 sq. ft.; that the house would be built on the existing slab with an addition to the rear of the house for a utility/mud room and family room; that the existing house has only one bathroom; that they are proposing to build a four bedroom house; that he paid 250 thousand for the lot; that he purchased the lot as an investment; that the property would be a hard sell without the garage; that there is no other place for storage because the house is built on a slab; that the documentation handed to the Board shows other renovation/additions in the area; and that the proposal before the Board is in keeping with the character of the neighborhood.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, the Board found and concluded that the benefits to the applicant if the variance(s) are granted do not outweigh the detriment to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested floor area ratio, building height and accessory distance variances would produce an undesirable change in the character of the neighborhood and a detriment to nearby properties. The applicants' desire for a larger profit is not a good reason to grant variances and the applicant was unwilling to reduce the size of the proposed garage or to remove it from the plans.

2. The requested floor area ratio, building height and accessory distance variances would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought by the applicant can be achieved by other means feasible for the applicant to pursue other than obtaining all of these variances. The removal of the garage would significantly reduce the magnitude of the variances requested.
4. The requested floor area ratio, building height and accessory distance variances are substantial are not in keeping with the character of the neighborhood.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but did not by itself, necessarily 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, building height and accessory distance variances is DENIED; 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 deny the application for the requested floor area ratio, building height and accessory structure variances was presented and moved by Mr. Sullivan , seconded by Ms. Castelli, and carried as follows: Mr. Mowerson, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Ms. Albanese, nay. Mr. Doherty was absent.

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

DATED: September 17, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

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

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

DECISION

PERFORMANCE STANDARDS APPROVED WITH CONDITIONS

To: Lisa deVogear

ZBA # 08-83

7 Shadyside Avenue

Date: 9 / 3 / 08

Upper Grandview, New York 10960

9/17, 2008

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08- 83: Application of Soap & Paper Factory Pursuant to Section 4.1 and 10.334 for Use Subject to Performance Standards review with respect to soap manufacturing, handmade body products and scented paper. Premises are located at 21 Rockland Park Road, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.16, Block 1, Lot 32; LIO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, September 3, 2008 and September 17, 2008 at which time the Board made the determination hereinafter set forth.

Lisa deVogear, Shannon Burch and Elizabeth Grubaugh appeared and testified.

The following documents were presented:

1. Floor plan labeled “Who’s Cooking” hand marked for the new use.
2. Use Subject to Performance Standards Resume of Operations.
3. Fire Prevention Supplement.
4. Short environmental assessment form.
5. Material Data Sheet for caustic soda beads (4 pages).
6. Material Date Sheet for ethanol SDA 40B/ Denatured alcohol (7 pages).

7. A letter dated April 25, 2008 from the County of Rockland Department of Health signed by Gregory Price, Public Health Engineer with a certificate of operate emission source to outer air dated 12/12/07 for 55 Railroad Avenue, Garnerville, N.Y.
8. A brochure for the Soap & Paper Factory.
9. A letter dated September 8, 2008 signed by Ronald Delo, P.E., Director, Department of Environmental Management and Engineering, town of Orangetown.
10. A letter dated September 8, 2008 from County of Rockland Department of Health signed by Gregory Price, Public Health Engineer.
11. A memorandum dated 8/28/08 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.
12. A letter dated August 25, 2008 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
13. A letter dated August 13, 2008 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
14. A letter dated August 20, 2008 from the County of Rockland Department of Health Environmental health Program signed by Gregory Price, Public Health Engineer.
15. A letter dated July 25, 2008 from the County of Rockland Drainage Agency signed by Edward Devine, Executive Director.
16. Revised Short "Environmental Assessment Form.
17. A list of items to be stored and type and amount of containers.
18. A revised Resume of Operations and Equipment form.
19. Revised floor plan.
20. Dry material safety data sheets.
21. Carrier oils material safety data sheets.
22. Fragrance oils material safety data sheets

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

Lisa deVogear testified that the company makes soaps, body scrubs, stationary, wrapping paper and beeswax candles; that they recycle all of their materials; that they are a green company; that they are relocating from Garnerville; that they sell their products to department stores and that they would like a continuance to properly address #21 on the resume of operations and equipment form and to submit a revised floor plan and additional material safety data sheets.

Public Comment:

No public comment.

At the September 17, 2008 meeting the Board reviewed the additional information requested and the updated Resume of Operations and Equipment, Fire Prevention Supplement and Short Environmental Assessment Form were thereupon reviewed in detail.

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.

On September 17, 2008, the Board determined that 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 Zoning Board of Appeals will have any significant involvement in the Performance Standards Conformance Review process, pursuant to Section 617.6 of SEQRA. On motion by Mr. Mowerson, seconded by Mr. Sullivan, and carried as follows: Ms. Albanese, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Mowerson,

aye; the Board declared itself as Lead Agency for Performance Standards Conformance Review.

The Orangetown Zoning Board of Appeals, as Lead Agency, determined that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared. The reasons supporting this determination are as follows:

§§4.13. 10.334 and 10.335 of the Zoning Code permit the ZBA to retain “continued enforcement” of performance standards on the part of any non-residential use.

Provided that the applicant complies with the Zoning Board of Appeals terms and conditions, the proposed use will not have a significant impact upon the environment and a DEIS will not be prepared because the proposed action will not significantly affect air quality, surface or ground water quality, noise levels, drainage or existing traffic patterns. In addition, it will have no impact upon the aesthetics, agricultural or cultural resources of the neighborhood and no vegetation, fauna or wildlife species will be affected as a result of the proposed use. The proposed action is consistent with the Town’s Master Plan and will not have any adverse economic or social impacts upon the Town of Orangetown.

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

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 the documents presented, the Board found and concluded that:

1. Based upon the information contained in applicant’s Resume of Operations and Equipment, the Fire Prevention Supplement, Short Environmental Assessment Form as modified, the letter dated September 8, 2008 from the Director of the Orangetown Department of Environmental Management and Engineering, the letters dated August 20, 2008 and September 8, 2008 from County of Rockland Department of Health signed by Gregorory Price, Public Health Engineer; Memorandum dated August 28, 2008 from Michael B. Bettmann, Chief Fire inspector, Town of Orangetown; Letter dated August 13, 2008 from the County of Rockland Department of planning signed by Salvatore Corallo, Commissioner of Planning; letter dated August 25, 2008 from the County of Rockland Sewer District No. 1 signed by Joseph La Fiandra, Engineer II; Letter dated July 25, 2008 from the County of Rockland Drainage Agency signed by Ed Devine, Executive Director; concluding there is no reasonable doubt as to the likelihood of applicant’s conformance, the other documents presented to the Board and the testimony of applicant’s representatives, the Board finds and concludes that conformance with the Performance Standards set forth in Code Section 4.1 will result sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to strict compliance with the terms and conditions of approval as set forth below, as well as the orders, rules and regulations of the Building Department and all other departments having jurisdiction of the premises.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application is **APPROVED** with the Specific **CONDITIONS** that the applicant adhere to all of the requirements set forth by the Orangetown Fire Safety Bureau, Orangetown Department of Environmental Management and Engineering, Orangetown Bureau of Fire Prevention, Rockland County Health Department, and Orangetown Zoning Board of Appeals ; **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 performance standards as conditioned was presented and moved by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Ms. Albanese, aye; Mr. Mowerson, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Doherty was absent.

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

DATED: September 17, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS

TOWN CLERK
HIGHWAY DEPARTMENT

SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR –L.P.

ASSESSOR
DEPT. of ENVIRONMENTAL
MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

DECISION

FLOOR AREA RATIO, FRONT YARD, AND BUILDING HEIGHT VARIANCES APPROVED

To: Clifford and Antoinette Ossman

78 Secor Blvd.
Pearl River, New York 10965

ZBA # 08-84

Date: 9 / 17 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-84: Application of Clifford and Antoinette Ossman for variances from Chapter 43, R-15 District, Section 3.12, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .269 proposed) , 8 (Front Yard: 30' required, 28.6' existing, 21.16' proposed) and 12 (Building Height: 20' permitted, 21.2' proposed) (Section 5.21 c Undersized lot applies) for an addition to an existing single-family residence. The premises are located at 78 Secor Blvd., Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.05, Block 2, Lot 44; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 17, 2008 at which time the Board made the determination hereinafter set forth.

Clifford and Antoinette Ossman and Pete Provenza, Builder, appeared and testified.

The following documents were presented:

1. Architectural plans dated May 29, 2008 signed and sealed by Harry Goldstein, Architect.
2. Plot plan based on survey by Angelo Fiorenza dated 10/7/83.

On advice of Mr.Dennis D. Michaels, Deputy Town Attorney 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) Regulations which does not require SEQRA environmental review. The motion was seconded by Mr. Sullivan and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Doherty was absent.

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

Clifford Ossman testified that they have owned the house for 17 years; that they are planning to retire in the house; that they would like to renovate and add a master bedroom suite to the first floor; that they would like to make the house a little larger for when the children visit; that they would like all of their living space on the first floor and have the bedrooms on the second floor for guests visiting; that the house diagonally across the street and two houses up the block and two houses down the block have done similar additions; that they have the largest lot on the block; and that the proposed addition will be in keeping with the character of the neighborhood.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio, front yard and building height variances would not produce an undesirable change in the character of the neighborhood nor create a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested floor area ratio, front yard and building height variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than obtaining variances.
4. The requested floor area ratio, front yard and building height variances are not substantial.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not necessarily preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio, front yard and building height variances 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 floor area ratio, front yard and building height variances was presented and moved by Ms. Albanese, seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Doherty was absent.

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

DATED: September 17, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -B.vW.

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

DECISION

SIDE YARD AND SECTION 5.227 REAR YARD VARIANCES APPROVED AS MODIFIED

To: Michael Sheehan

ZBA # 08-85

120 Old Middletown Road
Pearl River, New York 10965

Date: 9 / 17 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-85: Application of Michael and Bethanne Sheehan for variances from Chapter 43, R-15 District, Section 3.12, Group M, Column 9 (Side Yard: 20' required, 7.3' existing, 6' proposed) and from Section 5.227 (Swimming Pools Rear Yard: 20' required, 10' proposed) for the installation of an in-ground pool at an existing single-family residence. The premises are located at 120 Old Middletown Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.17, Block 5, Lot 32; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 17, 2008 at which time the Board made the determination hereinafter set forth.

Michael and Bethanne Sheehan and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Copy of site plan for proposed pool.

On advice of Mr. Dennis D. Michaels, Deputy Town Attorney 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) Regulations which does not require SEQRA environmental review. The motion was seconded by Mr. Sullivan and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Doherty was absent.

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

Donald Brenner, attorney, testified that the Sheehan's purchase the house several years ago; that the previous owner had installed an intricate drainage system that has helped with drainage on this property and for some of the abutting property owners; that the pipes are installed underground and run along the portion of the back yard that is being proposed to be kept as yard; that these pipes run down and through the neighbors property in the rear of the house and drain into the street drain on the street behind the house; that moving the pool over could damage this intricate drainage system; that abutting neighbors signed letters of support for the pool; and that the house at the rear of the property is between 20 & 25 feet lower in grade than the applicant's house; and that the addition of the pool will not be detriment to other properties.

Bethanne Sheehan testified that the house is on a very busy street; that they have three young children ages 6, 5 & 4; that they installed a new driveway in the front yard because getting out of the existing driveway was dangerous; that the new driveway takes up the front yard; that they would like to install the pool to the side of the rear yard so that there will still be some yard for the kids to play in; and that they have shown the plans to neighbors and they have no objection.

Michael Sheehan testified that the proposed area is more private and much less exposed to the street; that the neighbors on that side of the house have a two-story garage on that side of their property and a line of trees are planted along side a six foot fence; that they could move the pool over to stay in keeping with the existing 7.3' side yard; and that he has five brothers living in town that have 15 children between them and that he would like to keep some yard for all of the kids to play in when they are not in the pool.

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 the documents presented, 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 as modified to 7.3' and § 5.227 rear yard variances would not produce an undesirable change in the character of the neighborhood nor create a detriment to nearby properties. There is an intricate drainage system installed on the property that could get damaged if the proposed pool was centered in the rear yard and this drainage system benefits other abutting property owners as well as the applicant.
2. The requested side yard as modified to 7.3 and § 5.227 rear yard variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than obtaining these variances.
4. The requested side yard as modified to 7.3' and § 5.227 rear yard variances, although substantial, will not have an adverse impact on the neighborhood.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not necessarily preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested side yard and § 5.227 rear yard variances 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 as modified to 7.3' and § 5.227 rear yard variances was presented and moved by Ms. Albanese, seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Doherty was absent.

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

DATED: September 17, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -J.P.

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

DECISION

**FLOOR AREA RATIO, SIDE YARD, AND TOTAL SIDE YARD VARIANCES
APPROVED (UNDERSIZED LOT APPLIES)**

To: Peter and Elaine Royal

ZBA # 08-88

24 Schreiber Street
Tappan, New York 10983

Date: 9 / 17 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-88: Application of Peter and Elaine Royal for variances from Chapter 43, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .351 existing, .3976 proposed), 9 (Side Yard: 15' required, 9.9' existing on right side 11.2' existing on left side, 10.5' proposed to deck and 11.2' proposed to addition), 10 (Total Side Yard: 30' required, 21.7' existing, 21.7' proposed) and from Section 5.21 (Undersized Lot Applies) for an addition to a single-family residence. The premises are located at 24 Schreiber Street, Pearl River, Tappan, and are identified on the Orangetown Tax Map as Section 77.06, Block 3, Lot 33; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 17, 2008 at which time the Board made the determination hereinafter set forth.

Elaine Royal and Robert Cardillo, agent, appeared and testified.

The following documents were presented:

1. Architectural plans dated 7/1/08 revised 8/11/08 with site plan signed and sealed Thomas N. DiGiorgio, Architect.

On advice of Mr. Dennis D. Michaels, Deputy Town Attorney 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) Regulations which does not require SEQRA environmental review. The motion was seconded by Mr. Sullivan and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Doherty was absent.

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

Elaine Royal testified that she and her husband have owned the house for 15 years; that they have two children, one in college and one in high school; that they are planning on staying on the house and need to make a few improvements; that the kitchen is very small and they would like to enlarge it and add a bathroom on the first floor of the house; that they would like to keep the existing garage for storage and that they will be able to landscape the back yard when the addition is complete.

Bob Cardillo, agent, testified that the addition was designed to step in from the existing non-conforming yard set back; that it is a modest proposal of 270 sq. ft.; that it is the smallest addition that would still be able to fulfill the needs of the applicant; that Mrs. Royal would like a dishwasher in the kitchen and a very small family room that could accommodate a pull out sofa for company; that the finishes would match the existing house; that the garage is used for storage; that it would be almost impossible to make the proposed addition any smaller and still add a full bathroom on the first level; that the floor area ratio numbers are high because the house was built before zoning; that the proposed addition is only 270 sq. ft.; that two other houses up the street got variances for yards and that if the addition had to be reduced it almost wouldn't be worth doing.

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 the documents presented, 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, side yard and total side yard variances would not produce an undesirable change in the character of the neighborhood nor create a detriment to nearby properties. Similar size lots exist in the neighborhood and have had similar size houses constructed on them.
2. The requested floor area ratio, side yard, and total side yard variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than obtaining these variances.
4. The requested floor area ratio, side yard and total side yard variances although substantial are not unusual for the neighborhood because many of the lots are undersized.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not necessarily 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, side yard and total side yard variances 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 floor area ratio, side yard and total side yard variances was presented and moved by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Doherty was absent.

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

DATED: September 17, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
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FILE,ZBA, PB
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