

MINUTES  
ZONING BOARD OF APPEALS  
September 22, 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:

SKELLY 70.09 / 3 / 29; R-40 zone	FRONT YARD VARIANCE APPROVED	ZBA#10-62
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NEW ITEMS:

ROWATTI 77.10 / 1 / 23; R-15 zone	FLOOR AREA RATIO, TOTAL SIDE YARD AND REAR YARD VARIANCE APPROVED	ZBA#10-66
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ROONEY 64.17 / 2 / 19; R-15 zone	CONTINUED	ZBA#10-67
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WETTJE 69.05 / 2 / 18; R-15 zone	FLOOR AREA RATIO VARIANCE APPROVED	ZBA#10-68
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DURSO 74.18 / 1 / 14; R-15 zone	FLOOR AREA RATIO VARIANCE APPROVED	ZBA#10-69
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CROUCH 68.20 / 4 / 25; RG zone	FLOOR AREA RATIO, LOT AREA, FRONT YARD, BUILDING HEIGHT VARIANCES APPROVED	ZBA#10-70
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GEPPNER 68.12 / 1 / 40; RG zone	FRONT YARD VARIANCE APPROVED	ZBA#10-71
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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: McGee Re-subdivision Plan, 101 E. Park Avenue, Pearl River, NY 68.20 / 2 /67.2 & 68;

RG zone; Metro PCS New York, LLC-Collocation of Wireless Telecommunication facility Site Plan, 691 Route 340, Sparkill, New York, 77.16/1/5; LO zone; CVFF Development Corporation Site Plan Amendment, 789 Route 9W, Grandview, NY, 75.05/1/8; R-22 zone; Bradley Corporate Park Site Plan Amendment, 500 Bradley Hill Road, Blauvelt, New York, 70.06/1/1.13 & 50.4; LO 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 9:30 P.M.

Dated: September 22, 2010

#### DECISION

#### **FRONT YARD VARIANCE APPROVED**

To: Michael and Anne Skelly

ZBA # 10-62

62 Burrows Lane

Date: September 1, 2010

Blauvelt, New York 10913

September 22, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-62: Application of Michael and Anne Skelly for a variance from Chapter 43 (Zoning), R-40 District, Group E, Section 3.12, Column 8 ( Front Yard: 50' required, 37' proposed) for a proposed garage addition to an existing single-family residence. The premises are located at 62 Burrows Lane, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.09, Block 3, Lot 29; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, September 1, 2010 and September 22, 2010 at which time the Board made the determination hereinafter set forth.

Michael and Anne Skelly appeared and testified.

The following documents were presented:

1. Architectural plans not dated, signed and sealed by George Bruce Parker, Architect.

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

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

At the September 1, 2010 meeting Michael Skelly testified that they appeared before the

Board in December and received a variance but they have two problems; that the first problem is that the vehicle is 7' 6" and the original plan only allowed three inches to get out of the car, which would not work; that the second problem is that the first plan showed 8' garage doors and 9' garage doors are needed to accommodate the cars and the turning radius to get in and out of the garage; that the stairs in the front of the garage to get into the house require more space than was originally shown; and that the stairs should be shown in the garage, not in the mudroom; and that they would like a continuance to submit the proper plans.

At the September 22, 2010 meeting Michael Skelly testified that the revised plans are complete and correct; that they show the 9' wide garage doors and the extra three feet that is needed to accommodate the stairs in the garage; and that the required front yard would be 50' and they are requesting 37 feet.

Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicants' house is located on the property in such a way that this is the only logical place to add a garage.
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. The applicants' house is located on the property in such a way that this is the only logical place to add a garage.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance. The applicants' house is located on the property in such a way that this is the only logical place to add a garage.
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. The applicants' house is located on the property in such a way that this is the only logical place to add a garage.
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

**FLOOR AREA RATIO, TOTAL SIDE YARD AND REAR YARD VARIANCES APPROVED**

To: Adam and Carol Rowatti

ZBA #10-66

11 Claudia Court  
Tappan, New York 10983

Date: September 22, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-66: Application of Adam and Carol Rowatti for variances from Chapter 43 (Zoning), R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .233 proposed), 10 (Total Side Yard: 50' required, 48.3' proposed) and 11 (Rear Yard: 35' required, 27.5' proposed) for an addition to an existing single-family residence. The premises are located at 11 Claudia Court, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.10, Block 1, Lot 23; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 22, 2010 at which time the Board made the determination hereinafter set forth.

Adam Rowatti and Harry Goldstein, Architect, Dominic Caponigro, contractor, appeared and testified.

The following documents were presented:

1. Architectural plans dated 09/14/2009 with the latest revision date of 06/08/2010 signed and sealed by Harry Goldstein, Architect.
2. Survey dated 09/19/1984 with the latest revision date of 06/17 /2010 signed and sealed by Edward T. Gannon, PLS.
3. A photograph of the rear yard.

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.

Adam Rowatti testified that the house is very small; that there is no basement or attic; that they have a home office downstairs; that they have a daughter and want to have more children; that their family visits from overseas and stay for prolonged periods of time; that they have been working on these plans for two years; that they would like to add a guest bedroom, bathroom and playroom downstairs and a larger bathroom, closets and a family room upstairs; that the house is 2100 sq. ft. presently and would be 3900 sq. ft. when the addition is finished; that they have worked on this plan for a couple of years; that the shape and size of the property is odd; the property is shaped somewhat like a slice of pizza; that they designed the addition to fit the property as much as possible and still allow for a small backyard.

Harry Goldstein, Architect, stated that the addition was designed to fit the property; that the deck was designed to fit into the left rear of the property; that it is 6' wide at the walkway section and widens to ten feet; that it stretched the width of thirty feet; that half of that thirty feet is like a catwalk to the usable section of the deck which measures 16' x 10'; that the stairway was designed with a landing because of the height of the deck and the measurement for the yard is taken from the third step of the deck; that the downstairs bathroom is only 4' 10" wide and if they cut the width of the proposed addition the bathroom would not work; that without the landing the rear yard would increase from

27.5' to 31.1'; that the shed was designed to fit into the far corner of the yard and is part of the application; that the referral from the Building Inspector does not indicate a problem with the placement of the shed; and that if there is a problem they would return to the Board.

Dominic Caponigro, contractor, testified that he spoke to Bert VonWurmb when the application was denied and the side yard and rear yard were in need of a variance but the shed was never questioned.

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 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, total side yard and amended 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 pie shaped and the proposed addition is the least intrusive to the neighbors on either side.
2. The requested floor area ratio, total side yard and amended 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 pie shaped and the proposed addition is the least intrusive to the neighbors on either side.
3. The Board notes that the Plot Plan, dated 06/17/2010, by Edward T. Gannon, L.S., depicts a proposed shed in the north corner of the lot that encroaches into the 15' undisturbed area: the Board has not reviewed, as part of this application, the conformity or compliance of such shed with Orangetown's Zoning or Land Use regulations, and its location is neither approved nor denied by this Decision.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The applicants' property is pie shaped and the proposed addition is the least intrusive to the neighbors on either side.
5. The requested floor area ratio, total side yard and amended 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 pie shaped and the proposed addition is the least intrusive to the neighbors on either side
6. 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, total side yard, amended rear yard (31.1') 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, total side yard and amended rear yard (31.1') variances was presented and moved by Ms. Castelli, 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.

DATED: September 22, 2010

DECISION

**FLOOR AREA RATIO VARIANCE APPROVED**

To: Walter and Francine Wettje

ZBA # 10-68

131 Orchid Drive  
Pearl River, New York 10965

Date: September 22, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-68: Application of Walter and Francine Wettje for a variance from Chapter 43 (Zoning), R-15 District, Group M, Section 3.12, Column 4 ( Floor Area Ratio: .20 permitted, .2032 proposed) for an addition to an existing single-family residence. The premises are located at 131 Orchid Drive, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.05, Block 2, Lot 18; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 22, 2010 at which time the Board made the determination hereinafter set forth.

Walter Wettje and David Dinan, contractor, appeared and testified.

The following documents were presented:

1. Architectural plans dated 12/27/2004 signed and sealed by Robert Murphy, Architect.
2. A copy of the survey dated May 11, 1983 by Caruso & Haller.

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.

Walter Wettje testified that he purchased his house in 1983; that it was built in 1962 and it is a 40' high ranch; that the house has one shower; that his college aged kids are back home; that he would like to bump out and enlarge the kitchen and add a family room with a master bedroom /bath and closets upstairs; that the lower level would be for storage and a three seasons room; that he would also have a small deck for barbeques; and that he is six inches over what is permitted.

Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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



1. The requested floor area ratio variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested floor area ratio variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio 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 floor area ratio 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 floor area ratio variance was presented and moved by Mr. Sullivan, seconded by Ms. Albanese 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 VARIANCE APPROVED

To: John and Erica Durso

ZBA # 10-69

132 Lester Drive  
Tappan, New York 10983

Date: September 22, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 10-69: Application of John Durso for a variance from Chapter 43 (Zoning), R-15 District, Group M, Section 3.12, Column 4 (Floor Area Ratio: .20 permitted, .23 proposed) for an addition to an existing single family residence. The premises are located at 132 Lester Drive, Tappan, New York, and are identified on the Orangetown Tax Map as Section 74.18, 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 22, 2010 at which time the Board made the determination hereinafter set forth.

John and Erica Durso appeared and testified.

The following documents were presented:

1. Architectural plans dated 04/25/2010 signed and sealed by Robert Hoene, Architect.
2. Survey dated February 15, 1968 by Alfred Vogt.

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 Durso testified that he purchased his house four years ago; that they have three bedrooms upstairs and three children aged 4, 2, and 3 months; that they would like to add a master bedroom over the garage; that the garage was added in the late 60's and it can hold the load for the proposed master bedroom above it; that he does have a shed on the

side of the garage and it is a 6' x 12' shed and he will draw it on the site plan.

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 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 floor area ratio 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 a variance.
4. The requested floor area ratio variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar additions have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested floor area ratio 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 floor area ratio variance was presented and moved by Mr. Mowerson, seconded by Ms. Albanese 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, FRONT YARD AND BUILDING HEIGHT VARIANCES APPROVED**

To: Neal and Lindsay Crouch

ZBA # 10-70

101 Cedar Avenue

Date: September 22, 2010

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-70: Application of Neal and Lindsay Crouch for variances from Chapter 43 (Zoning), RG District, Group Q, Section 3.12, Columns 4 (Floor Area Ratio: .30 permitted, .322 proposed), 5 ( Lot Area: 10,000 sq. ft. required, 9,730 sq. ft. existing), 8 (Front Yard: 25' required, 12' existing, 14' proposed), and 12 (Building Height: 23.3' permitted, 24' proposed) for and addition to an existing single- family residence. The premises are located at 101 Cedar Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.20, Block 4, Lot 25; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 22, 2010 at which time the Board made the determination hereinafter set forth.

Neal Crouch and Douglas Radick, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 5/15/10 with the latest revision date of 7/12/10 signed and sealed by Douglas Radick, Architect.
2. 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.

Neal Crouch testified that he and his wife purchased their house five years ago; that they have added two more children to the family since then; that they would like to have all of the bedrooms on the same floor; that presently they have two bedrooms upstairs and they would like to have four bedrooms a master bathroom and a common bathroom upstairs; and expand the existing kitchen into one of the existing downstairs bedrooms and a family/playroom on downstairs; that they are planning to remove the existing deck and to add a new one; that they love the neighborhood and the school district; and that they are trying to keep the character of the 100 year old house that they love.

Douglas Radick., Architect, walked the Board through all of the drawings and testified that the Gambrel style roof is going to be repeated and changed in the proposed addition; that this change will allow for the increase in living space on the second floor of the house; that the gambrel roof will be raised by three feet and the pitch of the roof will be reduced and dormers will be added; that the front porch is actually being cut back by two feet increasing the existing front yard; that the neighborhood is very mixed, with all different style homes; that the proposed addition is in keeping with the character of the existing house and will not change the original character of the house.

#### Public Comment:

Anthony Costello, 113 E. Park Avenue, Pearl River, testified that he lives across the street from the Crouchs' and he is speaking in support of the application; that he has seen the plans and the proposed addition will fit into the neighborhood nicely.

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

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

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

#### FINDINGS OF FACT AND CONCLUSIONS:

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

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

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio, lot area, building height 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, building height and front yard variances was presented and moved by Ms. Salomon, seconded by Ms. Albanese 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: Joseph Geppner

ZBA # 10-71

57 W. Carroll Street

Date: September 22, 2010

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-71:Application of Joseph Geppner for a variance from Chapter 43 (Zoning), RG District, Group Q, Section 3.12, Column 8 ( Front Yard: 25’ required, 15.75’ existing, 10’ proposed) to replace decking on existing deck at an existing single-family residence. The premises are located at 57 West Carroll Street, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.12, Block 1, Lot 40; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 22, 2010 at which time the Board made the determination hereinafter set forth.

Joseph Geppner appeared and testified.

The following documents were presented:

1. Site plan with proposed porch.
2. Hand drawn plan for proposed porch.

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.

Joseph Geppner testified that this front porch has existed since the 1800's; that he came in for a permit to rebuild the porch and it was denied because it did not show on the existing site plan; that he has a picture of the house with the existing porch that one of his neighbors gave him; and that he does have shed that he can draw on the site plan.

Public Comment:

Anthony Costello, 113 E. Park Avenue, Pearl River, testified that he lives across the street from the Crouchs' and he is speaking in support of the application; that he has seen the plans and the proposed addition will fit into the neighborhood nicely.

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 additions 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 additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested front yard 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 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. 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.

DATED: September 22, 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

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

OBZPAE  
BUILDING INSPECTOR

CHAIRMAN, ZBA, PB, ACABOR



























