

MINUTES
ZONING BOARD OF APPEALS
September 23, 2009

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

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 Chairman Mr. Mowerson.

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEM:

BONHEUR 68.11 / 2 / 53; R-15 zone	ACCESSORY STRUCTURE HEIGHT AND FRONT YARD VARIANCES APPROVED	ZBA#09-54
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NEW ITEMS:

QUEVEDO 70.14 / 2 / 24.3; R-15 zone	SIDE YARD AND REAR YARD VARIANCES APPROVED	ZBA#09-58
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MILSOVIC 77.11 / 3 / 18; R-15 zone	SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#09-59
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SHABOYAN 70.15 / 1 / 7; R-15 zone	OWNER OCCUPIED SECOND DWELLING UNIT CHAPTER 43 § 4.5 VARIANCE APPROVED WITH COVENANT	ZBA #09-60
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SHEEHAN 69.10 / 1 / 50; R-15 zone	LOT AREA, LOT WIDTH, STREET FRONTAGE, SIDE YARD, TOTAL SIDE YARDVARIANCES APPROVED AS EXISTING; FRONT YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#09-61
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POWELL, PENSBENE DELBAGGIO APPEAL: O&R SUBSTATION DETERMINATION 73.15 / 1 / 19; LIO zone	POSTPONED	ZBA#09-62
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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 9:00 P.M.

Dated: September 23, 2009

**ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN**

DISTRIBUTION:

Deborah Arbolino
Administrative Aide

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

**ACCESSORY STRUCTURE HEIGHT AND FRONT YARD LOCATION
VARIANCES APPROVED**

To: Charles and Caroline Bonheur

211 West Crooked Hill Road
Pearl River, New York 10965

ZBA # 09-54

Date: 9/ 23 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-54: Application of Charles and Caroline Bonheur for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown Section 5.227, R-15 District, (Accessory Structure Height in side or rear yard: 15' permitted, 16' 4" proposed in front yard) for a two-car garage at an existing single-family residence. The premises is located at 211 West Crooked Hill Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.11, Block 2, Lot 53; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 23, 2009 at which time the Board made the determination hereinafter set forth.

Charles and Caroline Bonheur appeared and testified.

The following documents were presented:

1. Architectural plans dated 6/20/08 (5 pages) signed and sealed by Konstantinos Theodoropoulos, Architect.
2. Survey dated July 8, 2008 with the latest revision date of June 30, 2009 signed and sealed by Robert R. Rahnefeld, L.S.
3. Three letters in support of the application.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by

Ms. Castelli and carried unanimously.

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

Charles Bonheur testified that they are proposing to build a two-car garage with space above for storage; that they have two front yards; that they are proposing to enter the new garage from Laurel and close off the old entrance from Crooked Hill Road because it is getting dangerous; that there is a lot more traffic now and they are located t the top of a crest and are not comfortable with entering or leaving the property directly onto Crooked Hill; that they already spoke to the Highway Department and they do not see any problem getting a new curb cut as long as they are granted the variance first; that there are many mature trees on the property that they want to save and this is the only area that does not effect any of the trees; that they have a 13' x 10' basement that is only five feet in height; that several years ago they lost a very large Linden tree that was 70' high and its' canopy kept the house cool, since its' lost they added central air to the house and lost what storage space once existed in the small attic; that the house was built 150 years ago and does not have much storage.

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 accessory structure height variance and front yard location will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar accessory structure buildings have been constructed in the area. The applicant has two front yards.
2. The requested accessory structure height variance and front yard location will 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 by obtaining variances. Similar accessory structure buildings have been constructed in the area.
4. The requested accessory structure height variance and front yard location although

substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar accessory structure buildings 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 accessory structure height variance and 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 accessory structure height and front yard variances was presented and moved by Mr. Salomon, seconded by Mr. Sullivan, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, 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 23, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

SIDE YARD AND REAR YARD VARIANCES APPROVED

To: Michael and Laura Quevedo

ZBA # 09-58

55 Terrace Lane

Date: 9/ 23 / 09

Blauvelt, New York 10901

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-58: Application of Michael and Laura Quevedo for variances from Chapter 43, (Zoning) of the Code of the Town of Orangetown, Section 3.12, R-15 District, Column 9 (Side Yard: 20' required, 10' proposed) and from Section 5.227, (Rear yard: 20' required, 10' proposed) for the installation of an in-ground pool at an existing single-family residence. The premises is located at 55 Terrace Lane, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.14, Block 2, Lot 24.3; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 23, 2009 at which time the Board made the determination hereinafter set forth.

Michael Quevedo and Lenny Lesin, Penguin Pools, appeared and testified.

The following documents were presented:

1. Survey dated May 20,2008 signed and sealed by Joseph Haller, L.S. with the proposed pool location drawn in.

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

Lenny Lesin testified that they are proposing to install an in-ground pool with a liner at the southwest corner of the property; that there are no neighbors on that side because it

backs up to the rails to trail property that is about 30 to 40 feet below this property; that the property is oddly shaped and they would require a variance no matter where the pool was placed; that they are proposing an 18' x 36' pool that by code must be more than 8' from the house; that the pool can easily be seen from the kitchen window; that if they moved the pool in it would be closer to the basement stairs; and that they are planning to fence the pool separately from the rest of the yard.

Michael Quevedo testified that there is an existing 10' x 10' shed on the property that he has four children; and that this location for the pool makes sense because the pool is visible from the kitchen.

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

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

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

DATED: October 23, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By _____
Deborah Arbolino

Administrative Aide

DECISION

SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: John and Anne Marie Milsovic

ZBA # 09-59

295 Washington Street
Tappan, New York 10983

Date: 9/ 23 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-59: Application of John and Anne Marie Milsovic for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, Group M, R-15 District, Group M, Columns 9 (Side Yard: 10' required, 6' existing) and 12 (Building Height: 20' permitted, 22.3' proposed), (Section 5.21 undersized lot applies) for an addition to existing single-family residence. The premises are located at 295 Washington Street, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.11, Block 3, Lot 18; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 23, 2009 at which time the Board made the determination hereinafter set forth.

John and Anne Marie Milsovic and Elizabeth Parks, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 2/17/09 (6 pages) with the latest revision date of 8/16/09 not signed or sealed by Elizabeth Parks, Architect.
2. Survey dated April 15, 2008 signed and sealed by Anthony R. Celentano L.S.
3. A letter dated September 18, 2009 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
4. A letter dated August 5, 2009 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
5. A letter dated July 27, 2009 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.

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

Elizabeth Parks, Architect, testified that the existing house is less than 1,000 sq. ft.; that there is a small semi-finished basement and attic with less than 7' ceiling height; that they are proposing to add a second story with two bedrooms and a bath; that they are re-suing the original stairs in the rear of the house; that they are adding 395 sq. ft. mudroom and screened porch with insulation that can be used for three seasons out of the year; that the lot is slightly undersized; that the house was built close to one side yard; and the addition to the rear is being constructed away from the existing small side yard; that the roof will have a main gable with dormers on each side to have the least amount of impact; that the closest neighbor has a screening of white pines; that it is a very mixed neighborhood but the majority of the house are two-story houses; and showed the Board pictures of houses in the area.

John Milsovic testified that there are two in the family; that they are the primary

caretakers of his wife's parents; that they may come to live with them sometime in the future; and that they have owned the house since 1995.

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 side 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 side yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. Similar additions have been constructed in the area.
4. The requested side yard and building height variances although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. 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 side yard and building height 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 side yard and building height variances was presented and moved by Ms. Albanese, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, 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 23, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

OWNER OCCUPIED SECOND DWELLING UNIT VARIANCES APPROVED

To: Wilda Shaboyan

ZBA # 09-60

320 Greenbush Road

Date: 9 / 23 / 09

Blauvelt, New York 10913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-60: Application of Wilda Shaboyan for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown R-15 District, Section 3.11 Section 3.11, refer to R-80, Column 2 #7 (600 sq. ft. permitted, 863 sq. ft. proposed) for a second dwelling unit for an owner occupied single-family conversion of a single-family residence to allow a second dwelling unit pursuant to Orangetown Code Chapter 43 (Zoning) § 4.5. The premises are located at 320 Greenbush Road, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.15, Block 1, Lot 7; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 23, 2009 at which time the Board made the determination hereinafter set forth.

Wilda Shaboyan and Michelle Peatick appeared and testified.

The following documents were presented:

1. A cover letter from Wilda Shaboyan.
2. A hand drawing of the existing apartment with room dimensions.

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

Wilda Shaboyan testified that she purchased her house in 1971 with her husband and her mother and father; that the house was perfect because it had two separate living areas, one for her parents and one for her family; that her mom, dad and her husband passed away and she rented out the apartment for twenty years; that was how she was able to afford to stay in the house; that she even paid the house off that way; that now she lives upstairs and her daughter, Michelle lives down stairs with her family; that the house is in both their names; that she didn't understand why she got the violation letter for a condition that has always existed; and that she will sign a covenant that the house remain an owner occupied two-family for her and for her daughter.

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 owner-occupied single-family conversion of a single-family residence to allow a second dwelling unit pursuant to Orangetown Code Chapter

43 (Zoning) § 4.5 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The second dwelling unit is existing, there will be no change to the exterior of the building and the applicant has agreed to file the covenant required by § 4.51 of the Orangetown Zoning Code (Chapter 43).

2. The requested owner-occupied single-family conversion of a single-family residence to allow a second dwelling unit pursuant to Orangetown Code Chapter 43 (Zoning) § 4.5 variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The second dwelling unit is existing, there will be no change to the exterior of the building and the applicant has agreed to file the covenant required by § 4.51 of the Orangetown Zoning Code (Chapter 43).
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The second dwelling unit is existing, no change is taking place to the exterior of the building.
4. The requested owner-occupied single-family conversion of a single-family residence to allow a second dwelling unit pursuant to Orangetown Code Chapter 43 (Zoning) § 4.5 variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested owner-occupied single-family conversion of a single-family residence to allow a second dwelling unit pursuant to Orangetown Code Chapter 43 (Zoning) § 4.5 variance are APPROVED with the SPECIFIC CONDITION that the applicant submit the covenant required by §4.51 of the Orangetown Zoning Code (Chapter 43); 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 owner-occupied single-family conversion of a single-family residence to allow a second dwelling unit pursuant to Orangetown Code Chapter 43 (Zoning) § 4.5 804 sq. ft. variance was presented and moved by Ms. Castelli, seconded by Mr. Sullivan, and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, aye. Ms. Albanese 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 23, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

**LOT AREA, LOT WIDTH, STREET FRONTAGE, FRONT YARD, SIDE YARD,
TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED**

To: Christopher Sheehan

ZBA # 09-61

19 Staubitze Avenue

Date: 9 / 23 / 09

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-61: Application of Christopher Sheehan for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, Group M, R-15 District, Group M, Columns 5 (Lot Area: 15,000 sq. ft. required, 10,500 sq. ft. existing), 6 (Lot Width: 100' required, 70' existing), 7 (Street Frontage: 75' required, 70' existing), 8 (Front Yard: 30' required, 26.4' existing, 24.4' proposed), 9 (Side Yard: 15' required, 2.5' existing) (Section 5.21c applies), 10 (Total Side Yard: 30' required, 14.8' existing) and 12 (Building Height: 20' permitted, 22.3' proposed), (Section 5.21 undersized lot applies) for an addition to existing single-family residence. The premises are located at 19 Staubitze Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.10, Block 1, Lot 50; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 23, 2009 at which time the Board made the determination hereinafter set forth.

Christopher and Nicole Sheehan and Robert Hoene, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 7/19/09 (1 page) signed and sealed by Robert Hoene, Architect.
2. Survey dated May 24, 2002 signed and sealed by Robert E. Sorace, L.S.

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

Robert Hoene, Architect, testified that the Sheehan's are proposing to add a bedroom and bath above the existing garage; that they are expecting their first child in two months and need the additional space; that these houses were built as kit houses and a second story cannot be built above the existing house without re-enforcing the entire building; that the garage was built after the house and structurally can hold a second story; and that all of the set back variances are for existing conditions; the front yard and building height are the only new requests.

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 lot area, lot width, street frontage, front yard, side yard, total side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested lot area, lot width, street frontage, front yard, side yard, total side yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar

additions have been constructed in the area.

3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. Similar additions have been constructed in the area.
4. The requested lot area, lot width, street frontage, front yard, side yard, total side yard and building height variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. 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 lot area, lot width, street frontage, front yard, side yard, total side yard and building height 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 lot area, lot width, street frontage, front yard, side yard, total side yard and building height variances was presented and moved by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, 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 23, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

