

MINUTES
ZONING BOARD OF APPEALS
September 3, 2008

MEMBERS PRESENT: PATRICIA CASTELLI
 WILLIAM MOWERSON
 JOHN DOHERTY
 DANIEL SULLIVAN
 NANETTE ALBANESE

ABSENT: NONE

ALSO PRESENT: Denise Sullivan, 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 William Mowerson.

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONWAY 72.08 / 3 / 72; R-15 zone	FRONT YARD, REAR YARD VARIANCES APPROVED	ZBA#08-78
GILLEN 69.12 / 1 / 4; R-40 zone	SIDE YARD, REAR YARD VARIANCES APPROVED	ZBA#08-79
FLAHERTY 74.17 / 1 / 12; R-22 zone	REAR YARD VARIANCE APPROVED	ZBA#08-80
PEREZ 68.11 / 3 / 19; R-15 zone	SIDE YARD VARIANCE APPROVED	ZBA#08-81
STANTON/SIEGRIEST 69.10 / 1 / 27; R-15 zone	CONTINUED	ZBA#08-82
SOAP & PAPER FACTORY PERFORMANCE STANDARDS 77.16 / 1 / 32; LIO zone	CONTINUED	ZBA#08-83

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the 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 application: The Promenade Assisted Living Facility Site Plan (Blue Hill Development LLC Building #2, 582 Veterans Memorial Drive, Pearl River, NY. 73/05 / 1 / 53; OP Zoning District; 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 3, 2008

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

FRONT YARD AND SIDE YARD VARIANCES APPROVED

To: Patrick and Katherine Conway

ZBA # 08-78

200 Elizabeth Street
Pearl River, New York 10965

Date: 9 / 3 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-78: Application of Patrick and Katherine Conway for variances from Chapter 43, R-15 District, Section 3.12, Group M, Columns 8 (Front Yard: 30' required, 28.3' existing, 26' proposed) and 9 (Side Yard: 20' required, 17.45' proposed) (Section 5.21 c Undersized lot applies) for the construction of a deck at a single-family residence. The premises are located at 200 Elizabeth Street, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 72.08, Block 3, Lot 72; R-15 zone

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 3, 2008 at which time the Board made the determination hereinafter set forth.

Patrick Conway and Peter Ridge appeared and testified.

The following documents were presented:

1. Plot plan.
2. Deck plans.

On advice of Ms. Sullivan, Acting Attorney to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II

action exempt from the State Environmental Quality Review Act (SEQRA) Regulations which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Albanese, aye; Mr. Mowerson, aye; Mr. Sullivan, aye; Mr. Doherty, aye; and Ms. Castelli, aye.

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

Mr. Conway testified that he would like to have deck built over an existing patio and walkway; that he has lived in the house for 32 years; that he needs to go out six feet in the rear of the house to cover the existing cement steps; that there is an existing chimney that juts out two feet from the house and if the deck was only four feet wide in the rear it would be only two feet wide at the area of the chimney; that he would like the deck to be wheelchair accessible; and that the deck would be about 3 ½ or 4 feet off the ground.

Peter Ridge testified that his dad would like the deck to cover the existing concrete steps because it would be expensive to have to remove them; and that the six foot wide deck would be wheel chair accessible.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, the Board found and concluded that the benefits to the applicant if the variance(s) are granted 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 and side yard variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar decks have been constructed in the neighborhood.
2. The requested front yard and side yard variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested front yard and side yard variances are not substantial.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variances.

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

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested front yard and side yard variances as corrected by the Building Inspector was presented and moved by Mr. Sullivan, seconded by Ms. Castelli, and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Doherty, 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 3, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY

TOWN CLERK
HIGHWAY DEPARTMENT
ASSESSOR
DEPT. of ENVIRONMENTAL
MGMT. and ENGINEERING

DECISION

SIDE YARD AND REAR YARD VARIANCES APPROVED

To: Vincent and Margaret Gillen

ZBA # 08- 79

140 Sunset Road

Date: 9 / 3 / 08

Blauvelt, New York 10913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-79: Application of Vincent and Margaret Gillen for variances from Chapter 43, R-40 District, Section 3.12, Group E, Columns 9 (Side Yard: 30' required, 22' proposed) and 11 (Rear Yard: 50' required, 34' proposed) for an existing deck at a single-family residence. The premises are located at 140 Sunset Road, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 69.12, Block 1, Lot 4; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 3, 2008 at which time the Board made the determination hereinafter set forth.

Vincent Gillen and Rick Oliver, Building Inspector, appeared and testified.

The following documents were presented:

1. A letter dated July 9, 2008 signed by John Deans, Architect.
2. Site plan.

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

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

Rick Oliver, Building Inspector, testified that the house was built in 1965; that the original owner built the deck; that the Gillen's purchased the house in 1967; that Mr. Gillen's 85 year old mother-in-law lived with them at the time; that Mr. Gillen re-configured the deck and relocated things which extended the deck by three feet; that he is in the process of getting his affairs in order and found out that the deck existing deck needs a variance; and that he has inspected the deck and it is over-built.

Vincent Gillen testified that when he installed a storm door it opened out and a person needed to step out onto the stairs to get into or out of the door; that he reconfigured and added three feet onto the deck for this reason; that it has been like this for 41 years; that his property runs at an angle to the Church property; that in 1968 he got a variance to construct his carport; that he was superintendent of Schools in Orangetown from 1967 to 1978 and served on the Traffic Advisory Board from 1969 to 1979; that he is 90 and his wife is 92 and that he wants to get his affairs in order.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing the documents presented, the Board found and concluded that the benefits to the applicant if the variance(s) are granted 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 would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The deck has existed for 41 years without changing the character of the neighborhood.
2. The requested side yard and rear yard variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested side yard and rear yard variances are not substantial and have existed as such for the last 41 years.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variances.

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

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

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

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

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

The foregoing resolution to approve the application for the requested side yard and rear yard variances was presented and moved by Ms. Albanese, seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Doherty, 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 3, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -R.O.

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

DECISION

REAR YARD VARIANCE APPROVED

To: Jay and Jennifer Flaherty

ZBA # 08-80

66 Minuteman Circle
Orangeburg, New York 10962

Date: 9 / 3 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-80: Application of Jay and Jennifer Flaherty for variances from Chapter 43, R-22 District, Section 3.12, Group I, Column 11 (Rear Yard: 45' required, 35' existing, 33' proposed) for the construction of a deck at a single-family residence. The premises are located at 66 Minuteman Circle, Orangeburg, New York, and are identified on the Orangetown Tax Map as Section 74.17, Block 1, Lot 12; R-22 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 3, 2008 at which time the Board made the determination hereinafter set forth.

Jay Flaherty appeared and testified.

The following documents were presented:

1. Site plan.
2. Architectural plan dated 2008-Deck 2 signed and sealed by Eric Osborne, Architect.

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

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

Jay Flaherty testified that he would like build a deck instead of the concrete patio that was originally proposed in the rear of his house; that the reason for the change is that the deck would cost less and he likes the look of a deck better than a concrete patio; that he has owned the house for four years and that his wife and three boys share the house with him.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

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

the physical or environmental conditions in the neighborhood or district.

3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.
4. The requested rear yard variance is not substantial.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

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

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested rear yard variance was presented and moved by Ms. Albanese, seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Doherty, 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 3, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

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

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

DECISION

SIDE YARD VARIANCE APPROVED

To: Vincent and Tracy Perez

ZBA # 08-81

202 West Crooked Hill Road
Pearl River, New York 10965

Date: 9 / 3 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-81: Application of Vincent and Tracy Perez for a variance from Chapter 43, Section 3.12, R-15 District, Group M, Column 9 (Side Yard: 20' required, 12.92' proposed) for an addition to an existing single-family residence. The premises are located at 202 West Crooked Hill Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.11, Block 3, Lot 19; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 3, 2008 at which time the Board made the determination hereinafter set forth.

Vincent and Tracy Perez and Michael Maturo, Dyami Architects, appeared and testified.

The following documents were presented:

1. Architectural plans dated 6/30/08 signed and sealed by Michael Maturo, Architect.
2. Survey dated April 30, 2007 revised May 4, 2007 by Robert Rahnefeld, L.S.
3. Three letters from abutting property owners in support of the project.

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

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

Michael Maturo, Architect, testified that Vincent and Tracy purchased this house in the early 90's; that they have since had two children and have out-grown the house; that they love the house and the neighborhood and want to re-configure the interior of the house and add a garage; that the original entrance for the house was off of Crooked Hill Road but that was changed to Lincoln Street a while ago; that houses built in the 1920's did not make provisions for cars; that they would like to use the current curb cut and tie into the architectural design of the house to add the garage; that this will make the entrance into the house safer especially in bad weather; and that this plan is the most efficient way to enter the garage and step up into the house.

Vincent Perez testified that the proposed garage would be on the side of the property that abuts a driveway to a flag lot; that the driveway was moved from Crooked Hill Road to Lincoln in 1994 for safety reasons; that the roof line and design was looked at and changed many times to make the addition look as though it belonged to the house and to make it appealing for all views because of the corner lot.

Tracy Perez testified that the driveway was very dangerous when it was on Crooked Hill Road because of its location on the side of a hill; that cars from New Jersey would be traveling fast on Crooked Hill and backing out of the driveway was scary; that it is much safer having the entrance to the property off of Lincoln; that the reason they chose this spot for the garage was to preserve her gardens and the open space of the yard; and that the proposed location for the garage has less impact on her neighbors than if it were built in the yard.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed addition was designed to blend with the original 1920's architectural style of the house and three abutting property owners support the project.
2. The requested side yard variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.
4. The requested side yard variance is not substantial and it abuts a driveway to a flag lot and does not negatively impact the house on that lot.

5. The applicant purchased the property so the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

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

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested side yard variance was presented and moved by Ms. Albanese, seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Doherty, 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 3, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
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OBZPAE
BUILDING INSPECTOR –B.vw.

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

