

MINUTES
ZONING BOARD OF APPEALS
May 7, 2008

MEMBERS PRESENT: PATRICIA CASTELLI
 WILLIAM MOWERSON
 NANETTE ALBANESE
 DANIEL SULLIVAN

ABSENT: JOHN DOHERTY

ALSO PRESENT: Dennis Michaels, Esq. Deputy Town Attorney
 Anne 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

CONTINUED ITEMS:

VALENTINE COOK BUILDING 74.07 / 1 / 13; LIO zone	LOT AREA, LOT WIDTH, BUILDIGN HEIGHT, SECTION 13.10 b (2) & (10) APPROVED AS CONDITIONED AND MODIFIED	ZBA#08-24
---	---	-----------

INTERDENOMINATIONAL CHRISTIAN FELLOWSHIP OF U.S.A. 77.10 / 3 / 57; R-15 zone	FLOOR AREA RATIO, FRONT YARD, REAR YARD, SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED WITH CONDITIONS	ZBA#08-30
--	--	-----------

NEW ITEMS:

JOSEPHSON 68.19 / 1 / 31; R-22 zone	FRONT YARD AND REAR YARD VARIANCES APPROVED AS MODIFIED	ZBA#08-39
--	---	-----------

HANNY DELI-MART 69.13 / 1 / 18; CC zone	FRONT YARD VARIANCE APPROVED	ZBA#08-40
--	---------------------------------	-----------

TROY 69.09 / 2 / 11; R-15 zone	FRONT YARD VARIANCE APPROVED	ZBA#08-41
-----------------------------------	---------------------------------	-----------

PESECH 66.17 / 1 / 9; R-22 zone	DRIVEWAY GRADE AND LOT WIDTH, VARIANCES APPROVED	ZBA#08-42
------------------------------------	---	-----------

PIZZANO 78.18 / 1 / 39; R-15 zone	FLOOR AREA RATIO VARIANCE APPROVED	ZBA#08-43
--------------------------------------	---------------------------------------	-----------

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 11:15 P.M.

Dated: May 7, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

DECISION

LOT AREA, LOT WIDTH, BUILDING HEIGHT AS MODIFIED, AND FROM SECTION 13.10 B (2) AND B (10) VARIANCES APPROVED WITH CONDITIONS

To: Zaki Albanna (Cook Valentine)

ZBA # 08- 24

23 Depew Avenue
Nyack, New York 10960

Date: 5 / 7 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08- 24: Application of Valentine Cook Building for variances from Chapter 43, Section 3.12, LIO District, Group CC, Columns 5 (Lot Area: 2 acres required, 1.4 acres existing), 6 (Lot Width: 300' required, 200' existing), 12 (Building Height: 12.5' permitted, 35' proposed), and from Article 12 Section 13.10 B (2) (25' wide vegetative buffer required, 0' proposed); B(6) (Outside Commercial Storage of Vehicles: five (5) or more prohibited: storage of five (5) vehicles proposed at the rear of the property), B(10) (Not more than 35% of the parking in the front yard and 51% proposed), B(11) (Connections between abutting parking lots shall be provided: no connections provided) For the construction of a new two-story building. To be located on the north east side of Route 303, approximately 250 feet north of the intersection of Mountainview Road, and commonly known as 515 Route 303, Orangeburg, New York, and are identified on the Orangetown Tax Map as Section 74.07, Block 1, Lot 13; LIO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, March 19, 2008 and May 7, 2008 at which time the Board made the determination hereinafter set forth.

At the March 19, 2008 meeting Ed Cook and Paul Valentine appeared and testified.
At the May 7, 2008 meeting Ed Cook, Paul Valentine, Dominick Pilla, Engineer and Zaki Albanna, Engineer appeared and testified.

The following documents were presented:

1. Proposed Building Site Development plan dated 12/27/07 signed and sealed by Dominick Pilla, P.E.

2. Highlighted picture of site plan with building elevations attached.
3. Planning Board Decision #06-77 dated January 9, 2008.
4. A letter dated February 20, 2008 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
5. A letter dated March 18, 2008 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
6. A letter February 27, 2008 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
7. Six pictures of similar buildings in the area submitted by Mr. Valentine.

On September 8, 2006 the Zoning Board of Appeals consented to the Orangetown Planning board acting as Lead Agency for the SEQRA review process for this project. The Planning Board issued a Negative Declaration on January 9, 2008 (PB#06-77).

On March 19, 2008 Paul Valentine testified that they purchased the property with a site plan approval but it is not feasible to build a one-story building on this site because of the cost of the drainage.

The Board explained to the applicants that there were only four members of the Board present and because of some of the comments in the letter from Rockland County Planning they would need a majority plus one to override certain recommendations. Paul Valentine and Ed Cook requested a continuance.

At the May 7, 2008 meeting Ed Cook, Paul Valentine, Dominick Pilla, Engineer and Zaki Albanna, Engineer appeared and testified.

Dominick Pilla, Engineer testified that this applicant had been before the Board before with a similar plan that did not require a height variance; that the Board granted he necessary variances for that plan; that they are back before the Board because of the cost involved in implementing the plan; that the plan has been designed with a grass infiltration trench in the 25' buffer; that this system works by taking the sheet flow and capturing it into a depressed area that treats the water; that it is depressed below the parking lot and can treat a significant amount of water; that concrete containers underground would not work as well because of the flood plain; that this drainage system ate into the buffer off the parking lot but it drains the parking lot from three sides; that nothing can be planted in the grass channel but plantings can be done outside of the channel; that the water will meet perk levels and containment with the proposed system; that the building cost is greatly increased and the project would not be feasible without the second floor; that there is no parking permitted in the flood plain which added some of the required parking spaces to the front of the building; and that the overnight parking on the rear is not in the flood plain and is not visible from the street.

Ed Cook testified that in the beginning the plan showed 4,000 gallon drywells and the town requested this change; that the site was approved years ago but the Route 303 overlay requirements changed that; that the use of the building is a permitted use in the zone; that they could do without the overnight storage of vehicles and park everything inside; that the adjacent parking lot is not set up for the connections but they could set the connections on their property to the their own property line; that this building has been reduced in size from the original application; that the footprint is smaller; that the first floor of the building needs to be 15' high for warehouse space and the second floor could be 10' and the height can be reduced to 32'.

Paul Valentine submitted pictures to the Board of similar existing buildings in the area; and testified that the first floor of the building would be used as warehouse space for his business and Ed's; that the second floor would be used as office space some of which would be rented to offset the cost of the construction in the floodplain.

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.

Ms. Castelli made a motion to override comments # 2 & # 4 from the Rockland County Planning letter dated February 20, 2008 because the applicant has reduced the requested height variance and removed the request for the over night storage of vehicles in the rear of the building; which motion was seconded by Mr. Sullivan and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested lot area, lot width, building height, Section 13.01 B (2) &(10) variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to reduce the height of the building from the proposed 35' to 32' and has agreed to plant the portion of the grass buffer outside the drainage trench.
2. The requested lot area, lot width, building height, Section 13.01 B (2) &(10) variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant submitted pictures of buildings in the area that are similar to this proposal and has agreed to provide connections to abutting parking lots north and south to the applicant's property line but only to the extent of the property boundary lines.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested lot areas, lot width, building height, Section 13.01 B (2) & (10) variances, although substantial are in keeping with the character of the area.
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 lot area, lot width, building height, Section 13.01 B (2) &(10) variances is APPROVED with the FOLLOWING SPECIFIC CONDITIONS: (1) THE BUILDING HEIGHT SHALL BE REDUCED FROM THE PROPOSED 35' TO 32' (2) the applicant shall provide connections to abutting parking lots north and south to the applicant's property line but only to the extent of the property boundary lines ; 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, building height, Section 13.01 B (2) &(10) variances as amended and with conditions was presented and moved by Ms. Castelli, seconded by Mr. Sullivan, and carried as follows: Ms. Albanese, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Mowerson, aye. Mr. Doherty was absent.

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

DATED: May 7, 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 -L.P.

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

DECISION

**FLOOR AREA RATIO, FRONT YARD, SIDE YARD, REAR YARD AND
BUILDING HEIGHT VARIANCES APPROVED WITH CONDITIONS**

To: Brian Aitchison (International Christian Fellowship)

ZBA # 08-30

10 South Broadway
Nyack, New York 10960

Date: 4 / 2 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-30: Application of Interdenominational Christian Fellowship of U.S.A. for variances from Chapter 43, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .289 existing, .25 proposed), 8 (Front Yard: 30' required, 11' 1" existing), 9 (Side Yard: 20' required, 3' existing), 11 (Rear Yard: 35' required, 34' 4" existing), and 12 (Building Height: 3' permitted, 15' existing) for the use of an existing building as a church. The premises are located at 22 Stephens Lane, Tappan New York, and are identified on the Orangetown Tax Map as Section 77.10, Block 3, Lot 57; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on Wednesday, April 2, 2008 and May 7, 2008 at which time the Board made the determination hereinafter set forth.

Brian Aitchison, Architect, Donald Brenner, Attorney and Jerry Lott, Commercial Real Estate Broker, Matthew Vergis, Pastor and President, appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Interdenominational Christian Fellowship of U.S." dated 9/10/07 with the latest revision date of 2/14/08, signed and sealed by Drazen Cackovic, Architect.
2. A letter dated February 29, 2008 from the County of Rockland Department of Highways signed by Sonny Lin, P.E.
3. A letter dated March 25, 2008 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
4. A letter in opposition to the application from Raymond Icobelli.
5. Traffic Study prepared by Harry Baker & Associates dated December 20, 2007.
6. Nine color pictures- 7 pictures of the existing site, 2 pictures of the street.
7. A letter dated May 7, 2008 from K.A. Paulose and Mariakutty Pilipose 24 Stephens Lane in support of the application.
8. A cover letter dated April 22, 2008 from Donald Brenner with attachments: letter from Joseph Kulangara, resume of Harry Baker & Associates.

At the April 2, 2008 meeting Donald Brenner, Attorney, testified that this is an existing structure that was used as a warehouse for woodworking which was a non-conforming use; that the applicant is proposing a conforming use and is before the Board to codify existing conditions; that the Planning Board granted a preliminary approval and a SEQRA negative declaration in Planning board #07-67 dated February 13, 2008; that the applicant meets the parking requirement of 29 parking spaces; that they do not have a problem meeting the requirements of the letter from Rockland County Highway; that professionals presented a traffic study; that Mr. Icobelli is a very good attorney and should have challenged the Planning Board decision if he thinks that a negative declaration was granted in error; that it is amusing that the neighbors are concerned about noise when there can be up to 40 trains passing in a day; that James Dean is looking into parking on the street; that the applicant meets all of the parking requirements for religious institutions; that they have met everyone of the statues for granting a variance; that the present building is an eyesore; that this application is requesting variances for an existing condition that has had a non-conforming use that will improve the look of the property

and the new use is a conforming use; that churches are permitted in the R-15 zoning district; that the congregation has financial limits; that the plan before the Board does not require a variance for parking; that 29 parking spaces are provided; and if the Town does not want parking on the street they can install signs.

Brian Aitchison, Architect, testified that they are removing the 8' long shed; that the impervious area is not increasing; that the non-conformity of the building is being reduced; that the south portion of the building is being removed and the existing rear yard variance will be removed; that they are replacing all of the windows; the church is currently in Mamaroneck; that the existing building is not in good shape and has not been taken care of; that after the building is renovated the church members will take pride in the building and it will be kept up; and that they would like to request a continuance to answer questions regarding the traffic study.

Jerry Lott, Commercial Real Estate Broker testified that he has lived in the County for 32 years and has practiced Real Estate for 12 years; that he did a walk through on the interior and exterior of the subject property; that presently the property is an eyesore; that part of it is just deteriorated and the side yard is extremely overgrown; that the building was used with truck deliveries and woodworking; that the proposed use is losing the non-conforming use and will bring up property values in the area; and that he owns his own company and is a licensed N.Y.S. Real Estate Broker.

Matthew Vergis, Pastor and President of the Church testified that this is not a traditional church; that it is a fellowship of other churches; that there are usually between 70 and 80 people at the services; that on Sunday there are two services, one in the morning and one in the evening; that there is also a service on Saturday; that the members of this congregation belong to other churches; that this is an interdenominational congregation; that they are located in New Rochelle in a smaller structure; and that traditionally families attend services together traveling in vehicle per family.

Public Comment:

Raymond Icobelli, Attorney submitted a three page letter in opposition to the application; testifying that his daughter and son-in-law live in the house next to the proposed church; that granting the variances would have negative affect on the neighborhood; that the hours of the church are Saturday evenings from 5:00 to 7:00 P.M., Sunday 8:00 to 11:00 A.M. and 4:00 to 7:00 P.M and weekdays between 5:00 and 7:00 P.M. one to three times per week; that there will be more intensified traffic in the neighborhood; that the study falsely concludes that the impact of traffic will not have a negative impact because in their estimate of the number of vehicles they ignore the fact that most of these vehicles will be arriving and leaving at the same time; that even more incredible is that they would have you believe that the congregation of 140 people will arrive in approximately 15 to 20 vehicles; that this would amount to about 7 persons per vehicle; further exacerbating the situation is that the applicant testified that on three occasions a year there would be services held for approximately 100 families; that already there are about 40 trains per day going across Old Western Highway, Stephens Road and Stephens Lane; that the Board should consider a train approaching the crossing at the same time that the parishioners are leaving; that this would cause traffic jams and a major inconvenience to the residents of this dead end street; that air quality as these vehicles are stuck waiting spewing fumes upon the neighborhood for a period of five to ten minutes should be considered for its negative effect; that if a medical emergency should occur for a resident during such time it could be dangerous for residents because access by ambulance or fire trucks would be impossible; that it is difficult to understand how this board could grant these variances based upon the evidence submitted by the applicant; that it is the duty of the Board to consider the effect of granting these variances to the applicant based upon the unresolved issues of traffic, air quality and noise; and that he respectfully requests that the Board authorize studies be done by experts of the Board's choosing who will address the issues raised by the neighbors.

Ted Baker, 11 Stephens Road, testified that he has concerns regarding parking for the Church and questions the one space per five people; that Stephens Lane is not wide; and emergency vehicle access is a concern; and that currently there is no parking on Stephens Road.

Greg Gibney, 26 Stephens Lane testified that he lives south of the proposed church and has three children; that he is concerned with emergency access; that he went to the Shiloh Baptist Church where the congregation is currently located and it is the size of St. Margaret's in Pearl River; that this will change the quality of life in the neighborhood. Daniel Denehey, 63 Stephens Road testified that fixing the building would be nice but parking is a problem; that there are three private residences and the proposed church are Stephens and the road is only 18' wide; and he only saw one sign posted regarding this meeting.

Brenda Denehey, 63 Stephens testified that she is not a professional but has lived in the town for 42 years and is tired of fighting for quality of life issues; that she does not object to a church but this is not the place for it; that traffic wise it is not feasible.

Eric Hoovis, 23 Stephens testified that trucks loaded up once a day for the wood working shop and were gone; that he is selling his house and every realtor tells him that he should not tell perspective buyers that a church could be on the block.

Todd Swain, 16 Stephens testified that these people from the church are not going to live in the area.

At the May 7, 2008 meeting Donald Brenner, Attorney testified that he wanted the letter from the pastor read into the record to explain the exiting parishioners after service; that the qualifications of the traffic consultant needed to be added to the record; that the church does not cause pollution; that they are planning to clean up a site that has used auto parts and chemicals on site; that the train is noisier than any group of parishioners could be; that they meet the noise requirements; that Mr. Icobelli's house has been on the market for 1 ½ years; that the building will have sprinklers to protect against fire; that this is use permitted by right in this zone; that it requires area variances for the existing conditions; that Mr. Icobelli requested a fence or living fence and the church has no problem with that request; that his client has no problem with a fence but that is ACABOR's prevue; that the Planning Board granted a preliminary approval and a negative declaration under SEQRA.

Pastor Matthew Vergis testified that there are special occasions three or four times a year; that there are fasting services once in three or five months; that when church services end the parishioners do not all leave at the same time; that individual families stay for blessings which really staggers the traffic; that the singing in the church could not complete with the noise from the train; that the Architect told the him not to do anything on the site until they received approval from the Boards because of the criticism that taking down a singular tree caused; and that they would like to be good neighbors.

Joseph Kulangra, Vice President of the Interdenominational Church testified that he has concerns that the neighbors are stating that the church members are liars; that at the last hearing the owners of 24 Stephens Lane were asked if they were church members and they said no because they were not yet members of the church; that he was acquainted with them because they had a conversation and found out they are from the same region of their country; that since that time they have visited the church and become members; that there is room for up to 29 cars in the parking lot; that he travels to church with his wife , three kids and parents in one car; that traveling with seven people to services is not unusual; and that if they do not get approved to have the church here in this location he is afraid that they won't be able to worship anywhere in New York state.

Public Comment:

Eric Hoovis, 23 Stephens Lane testified that fire trucks could not pass on the street when a car is parked on the street as evidenced by the picture submitted; that the people from the church claim that they want to be good neighbors but he has asked repeatedly for the site to be cleaned up and they haven't cleaned anything; that the new owners are deceitful; that they said the owners of 24 Stephens were not members of the church; that the traffic expert never stated that traffic control would be needed at Stephens Lane and

Stephens Road; that he has been to the building department to complain regarding property maintenance and nothing has been done; that they say that 140 people will be able to attend services in 29 cars and the average of people attending changes all of the time.

Raymond Icobelli, Attorney, testified that he is Eric Hoovis's father-in-law; that the pastor did not tell the Board at the last hearing that the parishioners would all be leaving a staggered times; that at the last hearing he stated that they leave after prayers; that this is an area of five homes on a dead end street; that this proposal will increase traffic 400%; that 140 people coming and going on Saturday, Sunday and three or four times during the week will ruin the neighborhood; that the applicant never answered his concerns regarding pollution and noise; that this proposal will cause a n undesirable change in the character of the neighborhood; that there is a different story each time a question is raised; and he would at the least ask for a fence and a living fence to be placed between the properties.

Greg Gibney, 26 Stephens Lane testified that 140 people in more than 20 cars will change the character of the neighborhood; that he lives on the south side of the street and the owner before was one guy that went out once in the morning and returned once in the late afternoon; that this is a big change that when his carbon monoxide arm went off and the fire truck couldn't make it down the road to his house; that the hoses have to run past Mr. Denehy's office.

Ted Baker, 11 Stephens Road testified that if this variance is granted it should be for one year and revisited after that time.

John Denehey, 63 Stephens road, testified that the nearest fire hydrant is on Western Highway.

Raymond Icobelli, Attorney, testified that his house was not on the market for t1 ½ years; that it was on the market six months ago and is back on the market for the past 30 days; that Mr. Brenner is not an expert on air pollution or noise and the burden lies with the applicant; that this application will change the character of the neighborhood of only five house on a dead end street.

On November 20, 2007 the Zoning Board of Appeals consented to the Orangetown Planning board acting as Lead Agency for the SEQRA review process for this project. The Planning Board issued a Negative Declaration on February 13, 2008 (PB#07-87).

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.

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 out weigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested floor area ratio, front yard, side yard, rear yard and building height variances as conditioned would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The variances are being granted for an existing non-conforming building.
2. The applicant shall install a fence and/or vegetative screening along the side and/or rear property lines in a manner to be determined by ACABOR.

3. The applicant shall apply to or request a review from the Orangetown Traffic Advisory Board who shall review any significant adverse impacts on existing traffic patterns or traffic flow on Stephens Road that may be caused by the proposed Church use, and the applicant shall comply with the Traffic Advisory Board's recommendations that may be adopted or enacted by the Town Board
4. The requested floor area ratio, front yard, side yard, rear yard and building height variances as conditioned would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has submitted a traffic study that is satisfactory to the Planning Board. The Planning Board after studying the traffic report granted a negative declaration In Planning board Decision #07-67 dated February 13, 2008.
5. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
6. The requested floor area ratio, front yard, side yard, rear yard and building height variances although substantial are for existing conditions.
7. 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 floor area ratio front yard, side yard, rear yard and building height variances is **APPROVED** with the following **SPECIFIC CONDITIONS**: (1) the applicant shall apply or request a review from the Orangetown Traffic Advisory Board, who shall review any significant adverse impacts on existing traffic patterns or traffic flow on Stephens Road that may be caused by the proposed Church use, and the applicant shall comply with the Traffic Advisory Board's recommendations that may be adopted or enacted by the Town Board; (2) the applicant shall install a fence and/or vegetative screening along the side and/or rear property lines in a manner to be determined by ACABOR ; 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.

A motion was made by Mr. Mowerson to approve the application for the requested floor area ratio, front yard, side yard, rear yard and building height variances with the conditions that the applicant shall apply or request a review from the Orangetown Traffic Advisory Board, who shall review any significant adverse impacts on existing traffic patterns or traffic flow on Stephens Road that may be caused by the proposed Church use, and the applicant shall comply with the Traffic Advisory Board’s recommendations that may be adopted or enacted by the Town Board; and that the applicant shall install a fence and/or vegetative screening along the side and/or rear property lines in a manner to be determined by ACABOR ;which motion was seconded by Mr. Sullivan and failed to carry as follows: Ms. Albanese, abstained, Ms. Castelli, nay; Mr. Mowerson, aye, and Mr. Sullivan, aye.

The foregoing resolution to approve the application for the requested floor area ratio, front yard, side yard, rear yard and building height variances with conditions was presented and moved by Ms. Albanese. , seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Ms. Albanese, aye. Mr. Doherty was absent.

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

DATED: May 7, 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 –L.P.

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

DECISION

FRONT YARD AND REAR YARD VARIANCES APPROVED AS MODIFIED

To: Michael and Geraldine Josephson

ZBA # 08-39

206 West Central Avenue
Pearl River, New York 10965

Date: 5 / 7 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-39: Application of Michael and Geraldine Josephson for variances from Chapter 43, R-22 District, Section 3.12, Group I, Columns 8 (Front Yard: 40' required, 35' proposed) and 11 (Rear Yard: 20' required, 2' proposed) for the installation of an above-ground pool at an existing single-family residence. The premises are located at 206 West Central Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.19, Block 1, Lot 31; R-22 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 7, 2008 at which time the Board made the determination hereinafter set forth.

Michael and Geraldine Josephson appeared and testified.

The following documents were presented:

1. Site plan with hand drawing of proposed pool.

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

Geraldine Josephson testified that they have wanted a pool for sometime; that with college costs they delayed the pool and joined a swim club; that they could not get in to the Nauraushaun pool club because there is a long waiting list; that they have five kids and enjoy the kids and their friends hanging out at their house; that they decided to install a pool this year for that reason; and that the original proposal was for a 27' pool and that they downsized to a 24' pool which would increase the rear yard from the proposed 2' to a 5' rear yard.

Michael Josephson testified that they chose this area for the proposed pool because they have a concrete patio and barbeque in the middle part of the yard and the other side has the garage, shed and pear trees; that if the pool was placed on that side of the house it would feel like it was very exposed to the street; that this area is easily visible from the huge kitchen window; and the same variances would be needed on the other side of 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.

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 rear yard variances as modified would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has two front yards and the house is not centered on the lot.
2. The requested front yard and rear yard variances as modified 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 rear yard variances as modified 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 rear yard variances as modified is APPROVED with the SPECIFIC CONDITION that the applicant install a 24' pool to increase the rear yard from two feet to five feet; 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 rear yard variances as modified was presented and moved by Mr. Sullivan, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Doherty was absent.

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

DATED: May 7, 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 -M.M.

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

DECISION

FRONT YARD VARIANCE APPROVED

To: Joe Farsetta (Gulf Hanny Deli-Mart)

ZBA # 08-40

133 Old Middletown Road
Pearl River, New York 10965

Date: 5 / 7 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-40: Application of Haney Deli Mart for variances from Chapter 43, Section 3.12, CC District, Group JJ, Column 8 (Front Yard: 0' or 45' required, 9'6" and 13'7" proposed -two front yards) for the installation of two canopies over existing gas pumps.. The premises are located at 202 East Central Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.13, Block 1, Lot 18; CC zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 7, 2008 at which time the Board made the determination hereinafter set forth.

Joe Farsetta appeared and testified.

The following documents were presented:

1. Plans labeled Superior Canopy Corporation dated 4 / 18 /06, signed and sealed by Carl A. Demeter, P.E..
2. Copy of survey dated July 14, 2006 by Anthony R. Celentano, P.L.S., Goshen, N.Y..
3. A letter dated April 18, 2007 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
4. A letter dated April 23, 2008 from the County of Rockland Department of Highways signed by Sonny Lin, P.E.
5. A letter dated March 27, 2008 from the County of Rockland Drainage Agency signed by Edward F. Devine, Executive Director.

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

Joe Farsetta testified that his friends own the station and he is just helping them; that this has not been any easy project; that when he first came in with the project two years ago Len Post went out sick; and the project was reassigned to a substitute Building Inspector; that it was denied for ACABOR; that it was approved at that time and when they came in to get the permit they were told they needed to go to the Zoning Board; that they have survey; that they already have a permit from the Rockland County Department of Highways; and that he has no problem with answering the letter from the Highway Department.

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.

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 variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to answer all of the comments from the County of Rockland Department of Highways letter dated April 23, 2008.
2. The requested front 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 front 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 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. Albanese, seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Sullivan, aye. Mr. Doherty was absent.

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

DATED: May 7, 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 -L.P.

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

DECISION

FRONT YARD VARIANCE APPROVED

To: Michael and Jen Troy

ZBA # 08-41

310 Manor Boulevard
Pearl River, New York 10965

Date: 5 / 7 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08- 41: Application of Michael and Jennifer Troy for variances from Chapter 43, Section 3.12, R-15 District, Group M, Column 8 (Front Yard: 30' required, 24' and 29' proposed –two front yards) for an addition to an existing single-family residence. The premises are located at 310 Manor Boulevard, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.09, Block 2, Lot 11; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 7, 2008 at which time the Board made the determination hereinafter set forth.

Michael and Jennifer Troy and Andy McKeon, Contractor appeared and testified.

The following documents were presented:

1. Architectural plans dated November 20, 2006, signed and sealed by Harold Goldstein, Architect.

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

Michael Troy testified that he grew up in Pearl River, that he and his wife purchased their house four years ago; that they haven't done any work on it since they purchased it; that the house needs improvements; that they are proposing the addition with the front porch to be consistent with other improvements that have been done in the neighborhood; that the proposed addition shall match the existing structure; that there are three or four

houses in a quarter mile radius that have added porches and one of them is at the top of the hill.

Andy McKeon testified that the proposed second story is cantilevered on the right side two feet and in the front over the first floor bedroom; that the existing front stoop is at 26' and the proposed porch would go two feet beyond the existing stoop.

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.

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 variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is a corner lot with two front yards and similar additions have been constructed in the area.
2. The requested front 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 front 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 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 Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Doherty was absent.

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

DATED: May 7, 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

**LOT WIDTH AND SECTION 6.332 DRIVEWAY GRADE VARIANCES
APPROVED**

To: Jay Greenwell (Shadyside-Pesach)

ZBA # 08-42

85 Lafayette Avenue
Suffern, New York 10901

Date: 5 / 7 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-42: Application of Abraham Pesach for variances from Chapter 43, Section 3.12, R-22 District, Group I, Columns 6 (Lot Width: 125' required, 92.3' existing), 12 (Building Height: 15.75' permitted, 22.3' proposed) and from Section 6.332 (Driveway grade: 10% permitted, 15% existing) for the proposed construction of a new single-family residence. The site is located on the west side of Shadyside Avenue, 300' north of the intersection of Townsend Avenue, Upper Grandview, New York, and are identified on the Orangetown Tax Map as Section 66.17, Block 1, Lot 9; R-22 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 7, 2008 at which time the Board made the determination hereinafter set forth.

Jay Greenwell, Land Surveyor appeared and testified.

The following documents were presented:

1. Site Plan dated May 31, 2007 with the latest revision date of March 11, 2008 signed and sealed by Jay Greenwell, PLS,LLC.
2. A letter dated March 18, 2008 from Jay Greenwell.
3. A plan labeled "Exhibit showing existing driveways in the vicinity of 19 Shadyside Ave".

On September 5, 2007 the Zoning Board of Appeals consented to the Orangetown Planning board acting as Lead Agency for the SEQRA review process for this project. The Planning Board issued a Negative Declaration on September 6, 2007 (PB#07-49).

Jay Greenwell, Land Surveyor, testified that the building has been adjusted to eliminate the need for a height variance; that the neighbor to the west had expressed concerns regarding the height request; that the lot width has not changed; that the existing driveway portion is at 15% grade; that he would like the Board to look at the exhibit showing that many of the driveways in the area have grades of 15% and more; that it is not unusual in this area because of the existing conditions; that the existing driveway will be extended to the new house and that portion of it will be built to code; and that they are requesting to keep the first 75 feet off of Riverview at the existing 15% grade to minimize the land disturbance in this critical environmental area; that an issue has been brought to his attention by Mr. Mayer regarding a discrepancy in lot line location but that issue does not impact the variance request; and will be settled outside this Board.

Public Comment:

Christopher Fisher, Attorney testified that he was retained by the Mayers' that there is an issue with regards to the property line that is not an issue for this Board; that his clients do not oppose the requested variance for the driveway grade; and that they want it on record that there is an issue with the property line.

Glenn Mayer testified that he is not opposed to the new structure or the requested variances but that he wants it on record that there is an issue regarding the property line and that he hopes they can work toward some resolution.

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.

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 lot width variance is an existing condition that is not changing and the requested driveway grade variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The existing part of the driveway is the section of the driveway that requires the variance. The new portion of the proposed driveway will meet the Town requirements of 10% or less slope.
2. The requested lot width and driveway grade variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The portion of the driveway which requires the variance is existing.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested lot width and driveway grade variances although substantial are an existing condition that is not changed by the addition of the upper portion of the proposed driveway.
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 lot width and driveway grade 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 lot width and driveway grade variances was presented and moved by Mr. Sullivan , seconded by Ms. Castelli, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Sullivan, aye. Mr. Doherty was absent.

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

DATED: May 7, 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 -N.A.

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

DECISION

FLOOR AREA RATIO VARIANCE APPROVED

To: Jane Slavin (Pizzano)

ZBA # 08-43

25 Greenbush Road
Orangeburg, New York 10962

Date: 5 / 7 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-43: Application of Pasquale and Maria Pizzano for a variance from Chapter 43, Section 3.12, R-15 District, Group M, Column 4 (Floor Area ratio: .20 permitted, .211 proposed) to screen in an existing deck at an existing single-family residence. The premises are located at 50 Brianbeth Place, Tappan, New York, and are identified on the Orangetown Tax Map as Section 74.18, Block 1, Lot 39; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 7, 2008 at which time the Board made the determination hereinafter set forth.

Pasquale and Maria Pizzano and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Screened Porch Pizzano Residence" dated 10/11/07, signed and sealed by Jane Slavin, Architect.
2. Plot plan based on survey by Alfred A Vogt dated November 5, 1964 signed and sealed by Jane Slavin, Architect dated 10/11/07.

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

Maria Pizzano testified that she and her family have lived in this house for thirty years; that she has a 25 year old handicapped child that has anxiety problems; that she would like to screen in the existing deck and have a half wall in the room so that the child can enjoy being outside and feel safe at the same time; that all of her children live at home and the house has six bedrooms and a living room, dining room and kitchen.

Jane Slavin, Architect, testified that the plan is to enclose half of the existing deck; that the enclosure has to be on this side of the deck because of the placement of the door and sliding glass window; that the enclosed porch area is 261 sq. ft.; that there is no other way to achieve this and that the structure will have a solid half wall.

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.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The 261 sq. ft. enclosed screened in porch is proposed for an area that is already an existing deck.
2. The requested floor area ratio 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 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 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 Ms. Albanese, seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Ms. Albanese, aye. Mr. Doherty was absent.

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

DATED: May 7, 2008

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
OBZPAE
BUILDING INSPECTOR -R.O.

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

