

MINUTES
ZONING BOARD OF APPEALS
April 2, 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
 Elena Jennings, Clerk Typist

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

SCHMETTERER AMENDMENT TO ZBA #06-04 78.19 / 1 / 7; R-22	GRAVEL DRIVEWAY APPROVED	ZBA#06-32a
BRADY 66.17 / 1 / 7; R-22 zone	ACCESSORY STRUCTURE VARIANCE APPROVED	ZBA#08-25
MC GRATH 70.14 / 2 / 6; R-15 zone	FRONT YARD VARIANCE APPROVED	ZBA#08-26
MICHAELSON 69.09 / 2 / 38; R-15 zone	FLOOR AREA RATIO, FRONT YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#08-27
KELLY 70.15 / 2 / 15; R-15 zone	POSTPONED	ZBA#08-28
STUDENT BUS COMPANY 74.07 / 1 / 15; LI zone	CONTINUED	ZBA#08-29
INTERDENOMINATIONAL CHRISTIAN FELLOWSHIP OF U.S.A. 77.10 / 3 / 57; R-15 zone	CONTINUED	ZBA#08-30
ALUF PLASTICS PERFORMANCE STANDARDS 70.18 / 2 / 15; LI zone	POSTPONED	ZBA#08-31

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following applications: SMK Subdivision, 170 Old Tappan Road, Tappan, New York , 77.10 / 1 / 20.1; R-15 zone; and

FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

The verbatim minutes, as recorded by the Board's official stenographer for the above hearings, are not transcribed.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 10:30 P.M.

Dated: April 2, 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

GRAVEL DRIVEWAY VARIANCE APPROVED

To: Tyler and Sharon Schmetterer
25 Washington Spring Road
Palisades, New York 10964

ZBA # 06- 32a
Date: 4 / 2 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#06-32a: Application of Tyler and Sharon Schmetterer for a variance from Chapter 43, R-22 District, Section 6.332 (Gravel Driveway) to validate an existing gravel driveway on a previously examined site plan (ZBA#06-32). Premises are commonly known as 25 Washington Spring Road, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.19, Block 1, Lot 7; R-22 zone.

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

Tyler Schmetterer appeared and testified.

The following documents were presented:

1. Plot plan dated 1/10/06 signed and sealed by Stuart Strow, P.E., Centerpoint Engineering.

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 Ms.

Castelli and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Doherty was absent.

Tyler Schmetterer testified that the gravel driveway was shown on the plans when he was before the Board in April 2006; that he did not realize that he needed a variance for the gravel driveway because it was not mentioned; that he is back to ask to keep the existing gravel driveway; that there are many gravel driveways in Snedens Landing; that the foundation is for the timber frame barn that is going to be built this spring; that the barn has already been approved by the historic board; and that the gravel driveway is actually in keeping with the character of the neighborhood.

Public Comment:

No public comment.

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

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

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 gravel driveway variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The majority of the driveways in the area are gravel.
2. The requested gravel driveway 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 gravel driveway variance is not substantial for 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 variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested gravel driveway 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 gravel driveway variance was presented and moved by Ms. Castelli, seconded by Ms. Albanese, 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: April 2, 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

ACCESSORY STRUCTURE VARIANCE APPROVED

To: Bernice Brady
11 Shadyside Avenue
Upper Grandview, New York 10960

ZBA # 08-25
Date: 4 / 2 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-25: Application of Bernice Brady for a variance from Chapter 43, Section 5.153, R-22 District, (Accessory Structure not permitted in front yard: shed existing in a front yard) for an existing shed at a single-family residence. The premises is located at 11 Shadyside Avenue, Grandview, New York, and are identified on the Orangetown Tax Map as Section 66.17, Block 1, Lot 7; R-22 zone.

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

Bernice Brady appeared and testified.

The following documents were presented:

1. Hand drawn site plan showing the shed.
2. Survey.
3. Pictures of the existing shed.

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 Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Doherty was absent.

Bernice Brady testified that she did not know that the shed could not be constructed where it is; that it was built in 1999; that someone complained and that is how she found out that it could not be in its present location without a variance; that her property is a hillside; that there is a stone wall on the other side of the driveway; that there is an 8' x12' shed in the back that is used as a garden shed; that the deck was built in front of it to cover the waterway that winds its way through the property; that the basement of the house was converted into a playroom years ago and the sheds are used for storage; that the shed cost \$3,000.00; that she could cover the piers with lattice or plantings so that the bottom of the shed would not be noticeable from Shadyside; that it is very shady in that area and hard to grow anything; that this shed holds outdoor furniture, bikes, a lawn mower and snow shovels; and that she would definitely add lattice to cover the bottom part of the foundation if she is permitted to keep the shed in its present location.

Public Comment:

Victorio Loubrieo, 15 Shadyside testified that he is an abutting property owner that did not get a notice about this meeting; that this area is an environmentally sensitive area; that the building should be safe; that other neighbors have to come before the boards before they build anything; that this is an existing shed that should have gotten approval from the boards; that he has watched this person build three structures without approval; that the code enforcement officer should address this issue.

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 accessory structure variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The existing shed with the addition of lattice to cover the supporting blocks and or foundation will not have an adverse effect on the neighborhood.
2. The requested accessory structure variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property is quite steep and this is a level area of the property.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.
4. The requested accessory structure 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 accessory structure variance is APPROVED with the SPECIFIC CONDITION that the applicant install decorative lattice at the base of the shed on the east, north and south sides of the foundation; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

which legally permits such occupancy.

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

The foregoing resolution to approve the application for the requested accessory structure variance as conditioned was presented and moved by Mr. Sullivan , seconded by Ms. Albanese, 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: April 2, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

DECISION

FRONT YARD VARIANCE APPROVED

To: Jane Slavin (McGrath)
25 Greenbush Road
Orangeburg, New York 10962

ZBA # 08-26
Date: 4 / 2 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08- 26: Application of Robert and Jamie McGrath for a variance from Chapter 43, Section 3.12, R-15 District, Group M, Column 8 (Front Yard: 30’ required, 31.5’ existing and 26.35’ proposed) for an addition to an existing single-family residence. The premises are located at 85 Cottage Lane, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.14, Block 2, Lot 6; R-15 zone.

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

Robert McGrath and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

- 1. Architectural plans labeled “Porch Addition McGrath Addition” dated 11/30/07,

signed and sealed by Jane Slavin, 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 Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Doherty was absent.

Jane Slavin, Architect, testified that the applicant would like to add a roof over the existing front stoop' that the stoop measures 5.4' by 8'; that they are planning to add two columns and a roof over the existing foundation; that the structure is on the east side of the building and only gets early morning sun; that it is icy in the winter; that there are two other colonials on the block with front porches; that this block is a hodge podge of different style houses; and that this porch will be in keeping with the character of the neighborhood.

Robert McGrath testified that his parents purchased the house in 1974; that he moved out for a couple of years and moved back with his wife and three children; that this is the main entrance to the house; that there is a back door and entrance through the garage; that this entrance is icy in the winter; and that the covered porch would look nice and prevent ice on the 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. Several other houses on the street have covered front porches.
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. The covered east entry will prevent the icing on the stoop and make entry to the house safer.
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. Castelli, 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: April 2, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

DECISION

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

To: Timothy and Pamela Michaelson
84 Arlene Court
Pearl River, New York 10965

ZBA # 08- 27
Date: 4 / 2 / 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08- 27: Application of Timothy and Pamela Michaelson for variances from Chapter 43, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .225 proposed), 8 (Front Yard: 30' required, 23' proposed), 12 (Building Height: 20' permitted, 20' 10 ¼ " proposed) (Section 5.21 Undersized Lot applies) for an addition to an existing single-family residence. The premises are located at 84 Arlene Court, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.09, Block 2, Lot 38; R-15 zone.

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

Timothy Michaelson, Jeff Mancuso and Michael O'Connor appeared and testified.

The following documents were presented:

2. Architectural plans October 26, 2007 with the latest revision date of 2/5/08 signed and sealed by Birdeen Hanson P.E..
3. Three page letter and compliance certificate from Birdeen Hanson, P.E.
4. Site plan based on survey dated 3/17/97.
5. A letter in support of the application signed by seven neighbors.

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 Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Doherty was absent.

Jeff Mancuso, contractor, testified that the Michaelson family have owned the house for 11 years; that they would like to have all of the bedrooms on one floor; that presently it is a cape cod style house with two bedrooms upstairs with the slanted ceilings; that they are proposing the six foot wide sitting porch to enhance the architectural look of the house; that they are also adding a 290' x 20' kitchen at the rear of the house; that upstairs they are proposing three bedrooms and two bathrooms; that two other houses in the are have received variances; that 70 Arlene Court which is two house away from this one got a front yard variance for a front porch; that 55 Pearce Parkway behind Arlene Court got a front yard variance for a porch also; that the shed that is located two feet from the property line will be moved to five feet to be in compliance; and that this lot is an

undersized lot; that it is only 10,552 sq. ft. and R-15 zone requires 15,000 s. ft.; and that if the porch was removed they might meet the required floor area ratio but the house would have no architectural character.

Timothy Michaelson testified that sometimes the road is used as cut through to avoid Pearce Parkway; that presently there are three bedrooms and an office in the house; that his daughter sleeps in the bedroom upstairs and he and his wife have a bedroom on the first floor and a bedroom on the first floor for his son; that they would like all of the bedrooms on the second floor; and that if they had to cut back on the floor area ratio they could make the front porch five foot wide instead of the proposed six foot width.

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, front yard and building height variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the neighborhood.
2. The requested floor area ratio, front yard and building height variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.
4. The requested floor area ratio, front yard and building height variances are not substantial.
5. The applicant purchased the property so the alleged difficulty was self-created, which consideration 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 and building height variances is **APPROVED** with the **SPECIFIC CONDITION** that the existing shed be moved to be in compliance with the zoning regulation; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested floor area ratio, front yard and building height variances with condition was presented and moved by Mr. , seconded by Ms. Albanese, 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: April 2, 2008

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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ZBA MEMBERS
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MGMT. and ENGINEERING
FILE,ZBA, PB

OBZPAE
BUILDING INSPECTOR –B.vW.

CHAIRMAN, ZBA, PB, ACABOR

