

MINUTES
ZONING BOARD OF APPEALS
February 3, 2010

MEMBERS PRESENT: PATRICIA CASTELLI
JOAN SALOMON
NANETTE ALBANESE
DANIEL SULLIVAN

ABSENT: WILLIAM MOWERSON

ALSO PRESENT: Dennis Michaels, Esq. Deputy Town Attorney
Ann Marie Ambrose, Official Stenographer
Deborah Arbolino, Administrative Aide

This meeting was called to order at 7: 00 P.M. by Acting Chairperson Ms. Castelli.

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEM:

PEARL RIVER CAR WASH 64.17 / 1 / 77; CO zone	SIDE YARD VARIANCE APPROVED WITH CONDITIONS	ZBA#10-08
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NEW ITEMS:

PRENDERGAST 74.20 / 3 / 58; RG zone	FLOOR AREA RATIO, BUILDING HEIGHT VARIANCES APPROVED	ZBA#10-09
AFANASEWICZ 69.11 / 1 / 1; R-80 zone	FLOOR AREA RATIO, BUILDING HEIGHT VARIANCES APPROVED	ZBA #10-10
LYNSKEY 69.20 / 2 / 52; R-15 zone	BUILDING HEIGHT VARIANCE APPROVED	ZBA#10-11
SCHWEIZER 68.15 / 2 / 9; R-15 zone	SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#10-12

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.

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Chairman executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for SEQRA coordinated environmental review of actions pursuant to the following applications: Tappan Free Library Resubdivision Plan and Site Plan, 93 Main Street and 2 Oak Tree Road, Tappan, N,Y, 77.11/3/65 and 77.11/3/66; CS zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 9:15 P.M.

Dated: January 20, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DECISION

SIDE YARD VARIANCE APPROVED WITH CONDITION

To: Tim Weigel (Pearl River Car Wash)

ZBA # 10-08

2 Herald Court
Valley Cottage, New York 10989

Date: February 3, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-08: Application of Pearl River Car Wash for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown, CO District, Section 3.12, Group NN, Column 9 (Side Yard; 35' required, 11' proposed) for two additional pay stations with canopy. The premises are located at 558 North Middletown Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 64.17, Block 1, Lot 77; CO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 3, 2010 at which time the Board made the determination hereinafter set forth.

At the January 20, 2010 meeting Tim Weigel appeared and testified.

The following documents were presented:

1. Site plan dated 10/28/09 signed and sealed by Robert G. Torgersen, A.S.L.A..
2. Two letters dated January 6, 2010 and February 1, 2010 from the County of Rockland Department of Highways signed by Sonny Lin, P. E..
3. A letter dated December 14, 2009 from the State of New York Department of Transportation signed by Mary Jo Russo, P.E., Rockland County Permit Engineer.
4. A letter dated January 4, 2010 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
5. Four pictures of the proposed stations and canopy.
6. Auto cashiers save the day (2 pages).

7. Writing in favor of express exterior management (2 pages).
8. Earth ready, express exterior challenges CA's Hand wash mindset (4 pages).
9. A CD with Tidal Car Wash, Marc-1 Car Wash, Finish Line Car Wash, and Goo Goo Car Wash.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Mowerson was absent. Ms. Albanese was not present for this part of the hearing.

At the January 20, 2010 meeting Tim Weigel testified that he would like to install two auto pay stations under a canopy to help with the flow of cars through the car wash; that the pay stations accept cash or credit cards; that there would be designated lanes for car wash and a third for oil changes; that these systems have been very successful in other areas; that they are a way to keep track of money and the types of services that are most popular; that they are also a good tool to sell products; that the Board visited the property on Saturday, which was one of the first nice days and the car wash was very busy because people were washing the salt off their cars; that this happens a few times a year; that he would like a continuance to bring the Board more information regarding the pay stations.

At the meeting of February 3, 2010 Roger Memolo and Tim Weigel appeared and testified.

Tim Weigel testified that he hoped the CD and written information regarding the pay stations were helpful to the Board; that the side yard he is requesting is for the canopy covering the pay stations; that he has no problem complying with the signs and stripping that the County Highway is requesting; that the canopy has no effect on traffic; that when it is exceptionally busy they have men outside directing traffic; that he does not own the gas station next door; and that he would like to have an EZ pass type sticker for customers to use also.

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 close the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant can

install the pay stations without the large overhead canopy that requires the side yard variance, but has agreed to comply with the conditions of the County of Rockland Department of Highways letter dated February 1, 2009.

2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has agreed to comply with the conditions of the County of Rockland Department of Highways letter dated February 1, 2009.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The applicant can install the pay stations without the large overhead canopy that requires the side yard variance but has agreed to comply with the conditions of the County of Rockland Department of Highways letter dated February 1, 2009.
4. The requested side yard variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area, for the reasons stated above.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested side yard variance is APPROVED with the SPECIFIC CONDITION that the applicant demonstrate a means by which two (2) stacking lanes and the "kwik" lube lane can be orderly maintained and demonstrate that there will be no additional disruption of traffic along North Middletown Road; the applicant is to present a striping plan (to Rockland County Highway Dept.) of the lot to clarify how many internal stacking spaces will be maintained and the locations where merging of vehicles will occur; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated

hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

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

The foregoing resolution to approve the application for the requested side yard variance was presented and moved by Ms. Salomon, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Ms. Albanese was absent for this hearing. Mr. Mowerson 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: February 3, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

FLOOR AREA RATIO AND BUILDING HEIGHT VARIANCES APPROVED

To: Gerard and Tara Prendergast

ZBA #10-09

17 Derderer Street
Tappan, New York 10983

Date: February 3, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-09: Application of Gerard and Tara Prendergast for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown Section 3.12, RG District, Group Q, Columns 4 (Floor Area Ratio:.30 permitted .328 existing, .435 proposed) and 12 (Building Height: 20' permitted, 22' existing, 25'4" proposed) ; Section 5.21 Undersized lot applies, for an addition to an existing single-family residence. The premises is located at 17 Derderer Street, Tappan, New York, and are identified on the Orangetown Tax Map as Section 74.20, Block 3, Lot 58; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 3, 2010 at which time the Board made the determination hereinafter set forth.

Tara and Gerard Prendergast and John Perkins, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated November 24, 2009 (2 pages) with the latest revision date of December 29, 2009 signed and sealed by John Perkins, Architect.
2. Survey dated August 22, 2009 signed and sealed by Robert E. Sorace, L.S.

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

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

John Perkins, Architect, testified that there was an error in the publication and that the building height is not being increased to 25' 4"; that it already exists and the height will be maintained at 25' 4"; that the lot is undersized and the floor area ratio is a reflection if it; that they are proposing to add a master bedroom and bath at the same height and roof pitch on the second level and to extend the kitchen and add a powder room and mudroom; that the existing first floor has open patio area with a roof adds to the floor area ratio; that they are planning to add at the rear right hand corner for a breakfast area with a door to the existing covered patio area; that there will be one small full bathroom upstairs; that the front view of the house remains unchanged; that 14 and 33 Derderer, 11 and 18 Bauer and 467 Kings Highway have done similar expansions; that 372 square feet of the floor area ratio is for the existing covered patio and existing shed; that presently the floor area ratio is .33; that the addition is 267 sq. ft. upstairs, 125 square feet downstairs and the existing covered patio is 143 square feet; and that they are actually adding 392 square feet of heated space.

Gerard Prendergast testified that they purchased the house in October and presently there are almost three in the family; that his wife is due for their first child very soon.

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 close the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.

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

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

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

The foregoing resolution to approve the application for the requested floor area ratio and building height variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Mowerson was absent. Ms. Albanese was not present for this hearing.

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: February 3, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

FLOOR AREA RATIO AND BUILDING HEIGHT VARIANCES APPROVED

To: Paul and Carol Afanewicz
316 White Avenue
Pearl River, New York 10965

ZBA #10-10
Date: February 3, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-10; Application of Paul and Kara Afanewicz for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, R-15 District, Section 3.12, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .211 proposed) and 12 (Building Height: 20' permitted, 25'5" proposed) for an addition to an existing single-family residence. The premises are located at 316 White Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.05, Block 2, Lot 68; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 3, 2010 at which time the Board made the determination hereinafter set forth.

Paul and Kara Afanewicz and John Perkins, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated November 19, 2009 (2 pages) with the latest revision date of December 24, 2009 signed and sealed by Architects.
2. Survey for Brunard Village Inc..

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

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

John Perkins, Architect, testified that the Afanewicz's purchased the house three months ago; that they are adding an additional bedroom and changing the height of the second floor ceiling; that they will have three bedrooms and an additional bath on the second floor and would like to bump out six feet in the front of the house for a front entry/ coat closet and mudroom; that they are staying within the existing setback and the neighbors are in favor of the improvements because the house is presently in disrepair; that several houses in the area have made similar changes to their houses; that 38 & 12 Lombardi Street are taller than this proposal, that 84 & 52 Secor Boulevard are larger than this proposal; that the average height of the building is 25.5 and is 27' to the ridge; and that they are adding an additional 714 sq. ft...

Paul Afanewicz testified that there are presently three in the family and they are planning on more children.

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 close the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.

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

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

General Conditions:

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

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

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

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

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

Occupancy with respect to use does not constitute “substantial implementation” for the purposes hereof.

The foregoing resolution to approve the application for the requested floor area ratio and building height variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Mowerson 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: February 3, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

BUILDING HEIGHT VARIANCE APPROVED

To: Sean and Kathy Lynskey

ZBA #10-11

111 Derfuss Lane

Date: 2 / 3 / 10

Blauvelt, New York 10913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-11: Application of Sean and Kathy Lynskey for an amendment to decision ZBA#09-47 for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown Section 3.12, R-15 District, Group M, Column 12 (Building Height: 20’ permitted, 21’ 9” existing, 25’ 7” approved and 26’ 11”) for an addition to an existing single-family residence. The premises is located at 111 Derfuss Lane, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 68.20, Block 2, Lot 52; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 3, 2010 at which time the Board made the determination hereinafter set forth.

appeared and testified.

The following documents were presented:

1. Architectural plans dated 5/11/09 (2 pages) with the latest revision date of 1/4/10 signed or sealed by John Perkins, Architect.
2. Survey dated August 30, 1995 signed and sealed by Robert Rahnefeld, L.S.
3. Five pages of pictures of other additions in the area and Google maps with their locations.

4. Zoning board Decision 09-47, dated 7/15/09.
5. A letter dated January 3, 2010 from John Perkins, Architect to the Building Inspector.
6. A letter dated January 5, 2010 from Bert von Wurmb, Assistant Building Inspector.

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

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

John Perkins, Architect, testified that the Lynskeys' would like to add transom windows and in order to add these windows they need an additional 16" for the height variance that was previously granted; that they moved into the house seven years ago with one child and have added three more to the family since then; that the neighbors are in support of the change; and that he would add the existing above ground pool, shed and deck to the site plan.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested building height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested building height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested building height variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.

5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested building height 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 building height variance was presented and moved by Ms. Salomon, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Mowerson 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: February 3, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

DECISION

SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: Bruce Schweizer

ZBA # 10-12

171 Center Street

Date: February 3, 2010

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-12: Application of Bruce Schweizer for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown Section 3.12, R-15 District, Group M, Columns 9 (Side Yard: 15' required, 13.4' existing, 12' proposed) and 10 (Total Side Yard: 30' required, 26.4' existing, 25' proposed) (Section 5.21 Undersized Lot Applies) for an addition to an existing single-family residence. The premises is located at 171 Center Street, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.15, Block 2, Lot 9; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 3, 2010 at which time the Board made the determination hereinafter set forth.

Bruce Schweizer appeared and testified.

The following documents were presented:

1. Architectural plans dated October 1, 2009 (2 pages) signed and sealed by Harold J. Goldstein, Architect.
2. Survey dated October 28, 2009 signed and sealed by Robert R. Rahnefeld, L.S.

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

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

Bruce Schweizer testified that he has lived in this house his whole life; that he would like to remove an existing room that is four steps down and add a great room; with a nice

window; that his neighbors have no objections; that his father built the house on angle but the road was a dead-end when the house was built; that it is a Cape Cod style house; that the lot is undersized and he is adding a full basement below the great room for storage.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

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

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

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as

amended at or prior to this hearing, as hereinabove recited or set forth.

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

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

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

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

The foregoing resolution to approve the application for the requested side yard and total side yard variances was presented and moved by Ms. Albanese, seconded by Mr. Sullivan, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Mowerson 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: February 3, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

