

MINUTES
ZONING BOARD OF APPEALS
JANUARY 16, 2008

MEMBERS PRESENT: WILLIAM MOWERSON
PATRICIA CASTELLI
DANIEL SULLIVAN

ABSENT: NANETTE ALBANESE
JOHN DOHERTY

ALSO PRESENT: Kevin Mulhearn, 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 ITEM:

| | | |
|--|-------------------|------------|
| BLAUVELT CAR WASH 70.10 / 3 / 16; CC zone | DECISION DEFERRED | ZBA#07-106 |
|--|-------------------|------------|

NEW ITEMS:

| | | |
|--|-----------|-----------|
| CENTER STREET SUBDIVISION 75.05 / 1 / 10; R-22 zone | POSTPONED | ZBA#08-05 |
|--|-----------|-----------|

| | | |
|--|---|-----------|
| HILLSIDE COMMERCIAL PARK 68.16 / 21/ 1 & 68.11 / 3 / 39 & 40; LI zone | NEW YORK TOWN LAW SECTION 280-A VARIANCE APPROVED INTERPRETATION: REQUESTED USE PERMITTED WITH CONDITIONS | ZBA#08-06 |
|--|---|-----------|

| | | |
|--------------------------------------|--------------------------------|-----------|
| HOVORKA 70.09 / 2 / 37; R-40 zone | SIDE YARD VARIANCE APPROVED | ZBA#08-07 |
|--------------------------------------|--------------------------------|-----------|

| | | |
|---|-----------|-----------|
| 21 EAST CENTRAL AVENUE 68.16 / 6 / 62; CS zone | CONTINUED | ZBA#08-08 |
|---|-----------|-----------|

| | | |
|--|--------------------------------------|-----------|
| DI GIOVANNI 68.16 / 5 / 54; RG zone | TOTAL SIDE YARD VARIANCE APPROVED | ZBA#08-09 |
|--|--------------------------------------|-----------|

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 10:45 P.M.

Dated: January 16, 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

**NEW YORK TOWN LAW SECTION 280-a EXCEPTION GRANTED;
INTERPRETATION: REQUESTED USE PERMITTED WITH CONDITIONS**

To: Donald Brenner (Hillside Commercial Park)
21 East Central Avenue
Pearl River, New York 10965

ZBA # 08-06
Date: 1/ 16/ 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-06: Application of Hillside Commercial Park for an exception pursuant to New York Town Law, Section 280-a (Relation of structure to streets or highways) for proposed lot #2 and the LI District allows "Wholesale sales or storage and warehouses" by Right, however "self-storage" is not specifically addressed in the Zoning Code; therefore the Director recommends that the applicant obtain an interpretation from Zoning Board of Appeals for the proposed self storage use. An interpretation for use of the existing building as an office for the storage unit business and a residence for the security guard for the business. The site is located on the east side of Route 304 at the intersection of Hillside Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.16, Block 1, Lot 1; and Section 68.11, Block 3, Lots 39 & 40; LI zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 16, 2008 at which time the Board made the determination hereinafter set forth.

Ed Lane, James Tanner, Architect, and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Subdivision plan for Hillside Commercial Park signed and sealed by Jay Greenwell dated June 1, 2007.
2. Hillside Commercial Park plans dated 11/28/07 revised 12/13/07 signed and sealed by Brian Brooker, P.E., and titled as follows:
 - T. Title sheet
 1. Layout plan
 2. Grading and Utility Plan (1 of 2)
 3. Grading and Utility Plan (2 of 2)
 4. Off-site Utility
 5. Soil Erosion & Sediment Control Plan
 6. Landscaping and Lighting Plan
 7. Exiting Conditions
 8. Road Profiles

9. Road Profiles
 10. Drainage Profiles
 11. Sanitary Sewer Profiles
 12. Construction Details
 13. Construction Details
3. Two memorandums dated October 10, 2007 from John Giardiello, Director, OBZPAE, Orangetown.
 4. A letter dated January 3, 2008 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
 5. A letter dated January 8, 2008 from the County of Rockland Drainage Agency signed by Kent Rigg, P.E., Rockland County Drainage Agency.
 6. A letter dated January 16, 2008 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.

On advice of Mr. Mulhearn, Attorney to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the Zoning Board of Appeals consented to the Orangetown Planning Board acting as Lead Agency under SEQRA regulations on September 5, 2007 and the Planning Board will be responsible for the required SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Mowerson, aye. Mr. Doherty and Ms. Albanese were absent.

Donald Brenner, Attorney, testified that the property runs along State Route 304; that the state will not permit another entrance onto Route 304; that the proposed lot #2 requires an exception from New York Town Law 280-a for that reason; that the second reason they are before the Board is for an interpretation regarding this kind of warehouse/storage; that the LI zone permits warehousing but there is nothing specific regarding this type of warehousing; that there is nothing contrary to it either; that they are also requesting to permit an office with a residence above for security purposes; that the hours of operation would be 24 hours a day; that it is not the type of business that generates noise and it is not unsightly; that this property abuts the railroad and a state road; that there will be one major ingress/egress with a security gate across from the Pearl River Fire Department; and the Planning Board gave the applicant permission to come to the Zoning Board for the variance and interpretation before drainage approval was granted.

James Tanner, Architect, testified that he designed another facility like this one up in Spring Valley and there is a residence there as well for security, renting spaces and certain aspects of maintenance.

Ed Lane testified that the storage areas have not been broken up into individual storage spaces yet; that there is 106,000 sq. ft. of storage space to be broken down into units; that the security system would be automated; and that there would be a manager on-site but his family would also be involved in managing the property.

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:

1. The requested New York Town Law § 280-a exception and interpretation regarding storage/warehouse facilities and residential unit for security in favor of the

application would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.

2. This property is located in the LI zone and is wedged between State Route 304 and the railroad.
3. The office/ residential unit shall be inhabited by the on site manager of the warehouse/storage unit business only, but only provided that the premises continue to be used for storage/warehouse purposes, and the storage/warehouse facilities on the premises remain operational.
4. The requested New York Town Law § 280-a exception and interpretation regarding storage/warehouse facilities and residential unit for security in favor of the application would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining an interpretation and New York Town Law § 280-a exception.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested New York Town Law § 280-a exception and interpretation regarding storage/warehouse facilities and residential unit for security 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 New York Town Law § 280-a exception and interpretation regarding storage/warehouse facilities and residential unit for security was presented and moved by Mr. Sullivan, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; and Ms. Castelli, aye. Mr. Doherty and Ms. Albanese were 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: January 16, 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

SIDE YARD VARIANCE APPROVED

To: Henry Hovorka
75 Burrows Lane
Blauvelt, New York 10913

ZBA # 08-07
Date: 1/ 16/ 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-07: Application of Henry Hovorka for a variance from Chapter 43, Section 5.227, R-40 District, Group E, Column 9 (Side Yard: 30' required, 8' existing) for an existing shed at a single-family residence. The premises are located at 75 Burrows Lane, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.09, Block 2, Lot 37; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 16, 2008 at which time the Board made the determination hereinafter set forth.

Henry Hovorka appeared and testified.

The following documents were presented:

3. A letter of explanation dated December 4, 2007 from Henry Hovorka.
4. Three pages concerning the location/size of shed.
5. One letter in support of the application from the neighbor most affected by the granting of the variance.

On advice of Mr. Mulhearn, Attorney to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action under SEQRA regulations which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli,

aye; and Mr. Mowerson, aye. Mr. Doherty and Ms. Albanese were absent.

Henry Hovorka testified that he installed a 160 sq. ft. shed at the northwest corner of his property in October; that he did not realize that he needed a permit because the shed is 160 sq. ft. and the permitted 100 sq. ft.; that he placed the shed in that location because it is a dry section of the yard; that he thought if the shed was not installed on a foundation a permit was not required; that he did not know that he needed a 30' side yard because he is in the R-40 zone; that a neighbor at 175 Burrows Lane reported his shed because of an unrelated manner and that is when he found out that the shed was not in compliance; that it is placed in a naturally wooded area of the yard; that if he had to move the shed he could move it between eight and ten feet to the east but it still would not be in compliance and it would be costly to move; that if the only way he can keep the shed is to move it, he will move it; that it would be more visible if it is moved out of the wooded area and if the Board looked at the houses on the block, this shed is in keeping with the character of the neighborhood because almost everyone has a shed in similar locations on their properties.

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:

1. The requested side yard variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Other properties in the area have sheds of similar sizes, located in similar locations.
2. The requested side yard variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.

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

General Conditions:

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

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific

variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

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

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

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

The foregoing resolution to approve the application for the requested side yard variance was presented and moved by Mr. Sullivan, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; and Ms. Castelli, aye. Mr. Doherty and Ms. Albanese were 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: January 16, 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

TOTAL SIDE YARD VARIANCE APPROVED

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

ZBA # 08- 09
Date: 1/ 16/ 08

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-09: Application of Anthony Di Giovanni for a variance from Chapter 43, Section 3.12, RG District, Group Q, Column 10 (Total Side Yard: 30' required, 22.55' existing, 25.71 proposed) for an addition to an existing single-family residence. The premises are located at 156 Braunsdorf Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.16, Block 5, Lot 54; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 16, 2008 at which time the Board made the determination hereinafter set forth.

Anthony DiGiovanni and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

6. Architectural plans dated 12/4/07 revised 12/12/07 signed and sealed by Jane Slavin, Architect.
7. Survey dated October 17, 2007 signed and sealed by Stephen F. Hoppe, L.S..

On advice of Mr. Mulhearn, Attorney to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action under SEQRA regulations which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Mowerson, aye. Mr. Doherty and Ms. Albanese were absent.

Anthony DiGiovanni testified that his father owned this house since 1982; that his father recently passed away and left the house to him; that he and his family moved into the house in August; that they would like to remove the existing family room/garage structure and use it as a family room.

Jane Slavin, Architect, testified that the new addition is actually increasing the non-conforming existing total side yard by about three feet; that the southeast corner of the garage is 10' from the property line but because of the shape of the property the rear is closer to the property line.

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:

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

removal of the existing garage is reducing the total side yard.

2. The requested total side yard variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.

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

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested total side yard variance was presented and moved by Ms. Castelli, seconded by Mr. Sullivan, and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; and Ms. Castelli, aye. Mr. Doherty and Ms. Albanese were 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: January 16, 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.vw.

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

