

MINUTES
ZONING BOARD OF APPEALS
January 21, 2009

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

ABSENT: NONE

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 Chairman William Mowerson.

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEMS:

ROCKLAND NISSAN 70.06 / 1 / 9 & 10; LIO zone	SIGNS APPROVED AS MODIFIED	ZBA#08-103
PARKER 74.13 / 2 / 35; R-22 zone	SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED WITH CONDITIONS	ZBA#09-02

NEW ITEMS:

KLOMBERG 70.09 / 1 / 49; R-15 zone	SIDE YARD VARIANCE APPROVED AS MODIFIED	ZBA#09-05
KWON 74.17 / 1 / 16; R-22 zone	CONTINUED	ZBA#09-06
MAUCIONE 69.10 / 1 / 61; R-15 zone	FLOOR AREA RATIO, BUILDING HEIGHT VARIANCES APPROVED	ZBA#09-07
SAPIENZA 65.20 / 1 / 7; R-40 zone	POSTPONED	ZBA#09-08
ART STUDENTS LEAGUE	CONTINUED	ZBA#09-09

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 11:25 P.M.

Dated: January 21, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

DISTRIBUTION:

Deborah Arbolino
Administrative Aide

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

DECISION

SIGN AREA VARIANCES APPROVED AS MODIFIED

To: Rockland Nissan

ZBA # 08-103

608 Route 303

Date: 1 / 21 / 09

Blauvelt, New York 10913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#08-103: Application of Rockland Nissan for a variance from Chapter 43, LIO Section 3.11 refers to LO District, Column 1 #5, #11 (Sign Area: 30 sq. ft. single sided or 60 sq. ft. double sided permitted: 113 sq. ft. building sign and 75 sq. ft. pylon sign proposed) for an existing car dealership. The site is located at 608 Route 303, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.06, Block 1, Lots 9 & 10; LIO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 21, 2009 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Jonathon Stern, owner, Kristen Adinilfi, Nissan Parts & Service Representative, appeared and testified.

The following documents were presented:

1. Site Plan, First Floor Construction Plan, Exterior Elevations (3 pages) dated 4/14/08 signed and sealed by Michele Modesto, Architect.
2. Drawings of signs (3 pages) dated September 5, 2008 signed and sealed by Imad N. Kashif, P.E..
3. A letter dated November 26, 2008 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
4. A letter dated November 26, 2008 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
5. A copy of the picture of the previously approved pylon sign for Ford.
6. Five pictures of signs for other Nissan dealers in the surrounding areas.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel 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), pursuant to SEQRA Regulations §617.5 (c) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan; aye; Ms. Castelli, aye; and Mr. Doherty, aye.

Donald Brenner, Attorney, testified that the 75 sq. ft. pylon is already in place; that this Board approved a 119 sq. ft. pylon for the Ford Dealership that previously occupied this space; that the code is based on 500' of street frontage and his client has 975' of street frontage; that if this was a shopping center they would be permitted 300 square feet of signage; that the letter from Rockland County Planning is a standard letter for any signage that is over the code requirements; that Rockland County Planning always sends a negative letter for any increase in the size of a sign; and that the Nissan Service sign and the old existing sign on the adjacent lot can be removed.

Kristen Adinilfi testified that the pictures submitted show the standard size of the signs in all of the Nissan Dealerships; that Nissan requires that their dealers use these standard signs; that the proposal for the letters on the building are the smallest standard size letters that can be ordered; that smaller letters would have to be custom ordered; and that the Nissan Service sign is 24 square feet.

Jonathon Stern, owner, testified that he needs the name of the dealership for recognition; that this is an especially trying time for car dealers because of the economy; that he is getting pressure from Nissan to get the signs up; that to order custom size signs would be very costly; that by having the full name of the dealership in the building he is able to get special promotion on certain cars from the company; that he has no problem removing the sign on the adjacent lot; and that he will remove the Nissan Service sign if he can approval for the standard size building letters as presented.

Public Comment:

Andrew Wiley, Pearl River, testified that if Ford had a 119 sq. ft. pylon sign, than this is a much smaller and more attractive proposal.

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

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

Mr. Mowerson made a motion to close the Public Hearing which motion was seconded by Mr. Sullivan 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 sign area variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed signs are substantially smaller than the signs that existed at the previous car dealership on this site.
2. The requested sign area variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant

has agreed to remove an existing sign on the adjacent lot (70.06/1/8) and to remove the Nissan Service sign from the proposal.

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 sign area variances as modified, although substantial, have less impact on the environmental conditions of the area because some of the signs are on the building and only one double sided pylon sign is proposed.
5. The applicant purchased the property 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 sign area variances is APPROVED as MODIFIED by removing the existing sign on the adjacent lot (70.06/1/8) and the 24 sq. ft. "Nissan Service" sign from the subject building; 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 sign area variances as modified was presented and moved by Ms. Castelli, seconded by Mr. Doherty, and

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

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

DATED: January 21, 2009

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 AND TOTAL SIDE YARD VARIANCES APPROVED

To: Joseph and Theresa Parker

ZBA # 09-02

61 Minuteman Circle

Date: 1 / 21 / 09

Orangeburg, New York 10962

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-02: Application of Joseph and Theresa Parker for variances from Chapter 43, R-22 District, Section 3.12, Group I, Columns 9 (Side Yard: 25' required, 10' proposed), 10 (Total Side Yard: 60' required, 43.3' proposed) and 11 (Rear Yard: 45' required, 33' existing for deck) for the installation of an above-ground pool at an existing single-family residence. The premises are located at 61 Minute Man Circle, Orangeburg, New York, and are identified on the Orangetown Tax Map as Section 74.13, Block 2, Lot 35; R-22 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 7, 2009 at which time the Board made the determination hereinafter set forth.

Joseph Parker appeared and testified.

The following documents were presented:

1. Site Development Plan for pool dated 10/14/08 signed and sealed by William Boyce, P.E.
2. Two pictures of property

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel 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),

pursuant to SEQRA Regulations §617.5 (c) (10), (12) &/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan; aye; Ms. Castelli, aye; and Mr. Doherty, aye.

Joseph Parker testified that he and his wife have talked about a pool for four years; that they originally planned on installing a pool in the backyard but considered its impact on the rear neighbor and decided to situate it on the side yard; that the side yard places the pool by this neighbors two-car garage and does not impact his privacy; that he will not be able to see the pool because the building will block it and the noise; that they are planning on extending the existing deck with a step up for the pool area; that he will add a curtain drain or drainage pipe if that satisfies the neighbors concerns; and that he would like a continuance to bring the revised plan with drainage and the shed back to the Board.

Public Comment:

Nikos Panayotatos, 95 Monmouth Court, owner of the property to the rear, testified that he has a concern about noise and drainage; that he has a concern about drainage and where the pool would be drained; that the natural drainage pattern would be blocked if the pool structure is installed in the proposed area; that he teaches mechanical engineering; that he has a home office and is concerned with more noise; and that he would be pleased if a drainage plan was worked out to ensure that the water is directed to the stormwater in Minuteman Circle.

At the meeting of January 21, 2009, Joseph Parker testified that he has submitted the new plans showing the drain pipe going into catch basins in the front of the house and the existing shed; that he spoke to Nikos, his neighbor, after the last meeting and he said that he would be satisfied if drainage went to the front of my house.

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

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

Mr. Mowerson made a motion to close the Public Hearing which motion was seconded by Ms. Albanese 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 would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has submitted plans showing an acceptable proposed drainage plan and existing shed.
2. The requested side yard and total side yard variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought 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, would not impact the environmental conditions of the area. The proposed drainage plan would alleviate any potential adverse change in drainage patterns after the installation of the proposed pool.

5. The applicant purchased the property 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 is APPROVED with the SPECIFIC CONDITION that the drainage plan submitted on the plans be completed; 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 Castelli, seconded by Mr. Sullivan, and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Doherty, aye.

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

DATED: January 7, 2009

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

SIDE YARD VARIANCE APPROVED AS MODIFIED

To: Michael and Susan Klomberg

ZBA # 09-05

91 Old Western Highway

Date: 1 / 21 / 09

Blauvelt, New York 10913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-05: Application of Michael and Susan Klomberg for a variance from Chapter 43, R-15 District, Section 3.12, Group M, Column 9 (Side Yard: 15' required, 6' proposed) (Section 5.21C Undersized lot) for the installation of an in-ground pool at an existing single-family residence. The premises are located at 91 Old Western Highway, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.09, Block 1, Lot 49; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 21, 2009 at which time the Board made the determination hereinafter set forth.

Michael and Susan Klomberg appeared and testified.

The following documents were presented:

1. Site plan with pool.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel 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), pursuant to SEQRA Regulations §617.5 (c) (10), (12) &/or (13); which does not require SEQRA environmental review. The motion was seconded by Mr. Sullivan and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan; aye; Ms. Castelli, aye; and Mr. Doherty, aye.

Michael Klomberg testified that he is asking for a six foot side yard in order to install an in-ground pool in his backyard; that the property is only 50' wide; that he wanted to place the pool over to one side of the yard because he wanted to keep the other side of the yard for the kids to play; that he is planning on fencing in the pool separately from the rest of the yard; that the house to rear has a pool; that they share the garage with the neighbors; that none of the neighbors are objecting to the pool; that they could move the swim out to

allow an eight foot side yard; and that the nearest structure to the north, by the proposed pool, is 40 or 50 feet away.

Susan Klomberg testified that they purchased the house in 1993 and that they have two children aged 5 and 10.

Public Comment:

No public comment.

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

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

Mr. Mowerson made a motion to close the Public Hearing which motion was seconded by Mr. Sullivan 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 as modified would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Other pools have been installed in the neighborhood.
2. The requested side yard variance as modified would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested side yard variance as modified, although substantial, does not adversely effect or impact the environmental or physical conditions of the area.
5. The applicant purchased the property 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 relocate the pool to establish an eight foot side yard ; 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 as modified to eight feet, was presented and moved by Mr. Sullivan, seconded by Ms. Albanese, and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Doherty, aye.

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

DATED: January 21, 2009

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 AND BUILDING HEIGHT VARIANCES APPROVED

To: Michael and Dawn Maucione

ZBA # 09-01

41 Reld Street

Date: 1 / 21 / 09

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-07: Application of Michael and Dawn Maucione for variances from Chapter 43, R-15 District, Section 3.12, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .32.1 proposed), 8 (Front Yard: 30' required, 25.4' proposed) and 12 (Building Height: 20' permitted, 22.56' proposed) for an addition to an existing single-family residence. The premises are located at 41 Reld Street, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.10, Block 1, Lot 61; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 21, 2009 at which time the Board made the determination hereinafter set forth.

Michael and Dawn Maucione appeared and testified.

The following documents were presented:

1. Survey dated April 18, 1996 by Robert Rahnefeld, L.S.
2. Architectural plans dated Nov. 5, 2008 signed and sealed by Sanford Lent, Architect.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel 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), pursuant to SEQRA Regulations §617.5 (c) (9), (12) &/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Albanese, aye; Mr. Sullivan; aye; Ms. Castelli, aye; Mr. Doherty, aye.

Dawn Maucione testified that the house is a small ranch built on a slab; that her mother passed away suddenly and her father is sick and needs to move in with the family; that she needs to care for her father; that she has a nine year old son and twin girls aged seven; that her son's bedroom is off of the kitchen; that the house is crowded when the kids have friends over; that she is proposing to add three bedrooms, an office, laundry room and bathroom upstairs; that her dad would have a bedroom on the first floor; that the girls would continue to share a bedroom or one of them could use the office space for a bedroom when they are ready; and that they originally had planned on going up over the entire first floor but cut back when they realized how much over they would be on the floor area ratio.

Michael Maucione testified that they will be losing the family room to the staircase for upstairs; that the proposed bedrooms are not large, one is 8' x12', two are 9' x 12', and one is 11' x 13' that the front porch is important aesthetically, the house down the street on Stuabitz doesn't have a porch and looks terrible; that the porch improves the look of the house; that without the porch, the house will look like a giant box; that it also provides a place for the kids to stand in bad weather when they are waiting for the bus.

Public Comment:

Andrew Wiley, Pearl River, testified that he is in favor of the proposal; that he has lived in the Nauraushaun area and the house on Stuabitz looks terrible; that the proposed porch will improve the look of the house; and he wished the applicant good luck.

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

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

Mr. Mowerson made a motion to close the Public Hearing which motion was seconded by Mr. Sullivan 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 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 area.
2. The requested floor area ratio 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 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.
5. The applicant purchased the property 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 is **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

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

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

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

DATED: January 21, 2009

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

