

MINUTES
ZONING BOARD OF APPEALS
SEPTEMBER 21, 2011

MEMBERS PRESENT: WILLIAM MOWERSON
JOAN SALOMON
PATRICIA CASTELLI
THOMAS WARREN, ALTERNATE

ABSENT: DANIEL SULLIVAN
NANETTE ALBANESE

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 Mr. Mowerson, Chairman.

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

COSTELLO 68.20 / 4 / 18; RG zone	FRONT YARD VARIANCE APPROVED	ZBA#11-76
KROENUNG 68.16 / 6 / 40; CS zone	§9.34 EXTENSION OF NON-CONFORMING USE VARIANCE APPROVED	ZBA#11-77
CUOMO 69.16 / 1 / 59; R-15 zone	SIDE YARD VARIANCE APPROVED	ZBA#11-78
MATHEW 70.13 / 2 / 13.2; R-15 zone	FLOOR AREA RATIO, AND SIDE YARD VARIANCES APPROVED	ZBA#11-79

ADDITIONAL BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following applications: Reshong Tree Remediation Plan, 909 Route 9W, Upper Grandview, N.Y., 71.17 / 1 / 8; R-22 zone; Bailey's Smoke House Resubdivision Plan and Site Plan, 136 Erie Street, Blauvelt, N.Y., 70.14 / 4 / 5, 6, & 7; 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.

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 10:00 P.M.

Dated: September 21, 2011

DECISION

FRONT YARD VARIANCE APPROVED

To: Anthony Costello

ZBA # 11-76

113 East Park Avenue

Date: September 21, 2011

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 11-76: Application of Anthony Costello for a variance from Chapter 43 (Zoning) Section 3.12, RG District, Group Q, Column 8 (Front Yard: 25' required, 12.3' & 15' existing and proposed: two front yards) for an addition to an existing single-family residence.. The premises are located at 113 East Park Avenue, Pearl River, New York an identified on the Orangetown tax Map as Section 68.20, Block 4, Lot 18; RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 21, 2011 at which time the Board made the determination hereinafter set forth.

Anthony Costello appeared and testified.

The following documents were presented:

1. Copy of site plan dated May 1, 2000 signed and sealed by Robert Sorace, PLS with proposed addition hand drawn on it.
2. Thirteen pictures of house and street frontage.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Ms. Castelli 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), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Warren, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, aye. Mr. Sullivan and Ms. Albanese were absent.

Anthony Costello testified that they are proposing to convert an existing garage into a family room and removing the existing deck and constructing a new mud room and new covered entrance into the house; that there will be no change to the front yards because the deck is being removed and replaced at the exact same location with the mud room and covered entrance and the garage exists in its present location and will become a family room; that the property has two front yards but in reality one of the streets is a paper

street and does not exist except on paper.

Public Comment:

Neil Crouch, an abutting property owner testified that the applicant had gone over the plans with him and other neighbors and that he offers his full support of the project, that it will add value to the neighborhood.

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. Castelli 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 front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed renovation causes no change in the pre-existing non-conforming front yards. The lot is a corner property with two front yards and the existing house was built off center on the lot.
2. The requested front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed renovation causes no change in the pre-existing non-conforming front yards. The lot is a corner property with two front yards and the existing house was built off center on the lot.
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. The existing house has these pre-existing non-conforming front yards and the proposed renovation is not changing them.
4. The requested front yard variance, is not substantial. The proposed renovation causes no change in the pre-existing non-conforming front yards. The lot is a corner property with two front yards and the existing house was built off center on the lot.
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 front yard variance is **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested front yard variance was presented and moved by Ms. Salomon, seconded by Mr. Mowerson and carried as follows: Ms. Castelli, aye; Mr. Warren, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Mr. Sullivan 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: September 21, 2011

DECISION

EXTENSION OF NON-CONFORMING USE VARIANCE (§9.34) APPROVED WITH SPECIFIC CONDITION

To: Marc Kroenung

ZBA # 11-77

32 Atlantic Avenue
Nanuet, New York 10954

Date: September 21, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-77: Application of Marc Kroenung for a variance from Chapter 43 (Zoning), CS District, Section 9.34 (Expansion of existing non-conforming use) for the conversion of commercial office space to a residential unit at an existing two-family/ commercial office building. Premises are located at 149 East Central Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.16, Block 6, Lot 40; CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 21, 2011 at which time the Board made the determination hereinafter set forth.

Marc Kroenung appeared and testified.

The following documents were presented:

1. Site plan.
2. Computer generated floor plan of the building.
3. A letter dated July 29, 2011 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
4. A letter dated July 15, 2011 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
5. A letter dated September 16, 2011 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
6. A letter dated September 9, 2011 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Ms. Castelli 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), (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Warren, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, aye. Mr. Sullivan and Ms. Albanese were absent.

Marc Kroenung testified that he is the owner of 149 East Central Avenue; that the property currently has a legal use as a two family with an additional commercial/office space; that he applying for a variance from the zoning regulations to covert the commercial/office space to a residential space; that he has owned the house since 2004 and has had only one tenant for the office space for a period of one year; that efforts to rent the space has been unsuccessful; that the space cannot be rented as office space considering the amount of office space currently available in downtown Pearl River; that the inability to rent this commercial/office space has created an unnecessary hardship because without being rented the property cannot provide a reasonable financial return; that with unavoidable expense increases like tax increases of \$400-\$600 yearly, utility rates and insurance premium increases this property loses money every month; that he has refinances to lower the rate of the mortgage; that by converting the commercial/office space to a residential unit it will become rented space; that economically this is a feasible alternative to provide adequate income to properly maintain and stay current with the properties financial obligations; that my hardship cannot be remedied by any other method that is reasonable other than granting the variance; that the granting of this variance will not create an undesirable change in the character of the neighborhood not a detriment to any nearby properties as this is a prevalent type of use in the neighborhood; that it would be a seamless transition because alteration to the exterior of the structure would not be necessary and only minimal alteration would be required on the interior; that there is adequate off-street parking and granting the variance would decrease local traffic flow; that the requested variance is minor in nature based on the majority of surrounding properties use in this neighborhood and surrounding communities need of a

proliferation of this type of home use; that he believes that the proposed variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and that he would agree to pave the parking area where it is presently gravel.

Public Comment:

Karl Ackerman, 159 Central Avenue, Pearl River, testified that he is not opposed to the application; that the family has been in the area a long time; that he would ask that they consider paving the gravel parking area because it would be less noisy.

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. Castelli 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 expansion of non-conforming use variance (§ 9.34) will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The 550 sq. ft. of commercial/office space being converted to residential use in this mixed use neighborhood will benefit the applicant by providing space that can be rented, further benefiting the community by affording the applicant enough return on the property to enable him to pay taxes and upkeep the property to enhance the neighborhood.
2. The requested expansion of non-conforming use variance (§ 9.34) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The 550 sq. ft. of commercial/office space being converted to residential use in this mixed use neighborhood will benefit the applicant by providing space that can be rented, further benefiting the community by affording the applicant enough return on the property to enable him to pay taxes and upkeep the property to enhance the neighborhood.
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. The applicant testified that he cannot rent the commercial space and has been losing money monthly on the property; by permitting the 550 sq. ft. of commercial/office space to be used as residential the applicant can keep current on his financial obligations for the property.
4. The requested expansion of non-conforming use variance, (§ 9.34) is not substantial. The 550 sq. ft. of commercial/office space being converted to residential use in this mixed use neighborhood will benefit the applicant by providing space that can be rented, further benefiting the community by affording the applicant enough return on the property to enable him to pay taxes and upkeep the property to enhance the neighborhood.
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 expansion of non-conforming use variance (§ 9.34) is APPROVED with the SPECIFIC CONDITION that the existing gravel parking area be paved prior to the issuance of a certificate of occupancy for the new 550 sq. ft. residential unit; 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.

(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 expansion of non-conforming use variance (§ 9.34) with the specific condition that the existing gravel parking area be paved was presented and moved by Mr. Mowerson, seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Mr. Warren, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Mr. Sullivan 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: September 21, 2011

DECISION

SIDE YARD VARIANCE APPROVED

To: Raffaele Cuomo

ZBA # 11-78

4 Truman Circle
Blauvelt, New York 10913

Date: September 21, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 11-78: Application of Raffaele Cuomo for a variance from Chapter 43 (Zoning), R-15 District, Group M, Column 9 (Side Yard: 20' required, 23' existing, 13.27' proposed) for an addition to an existing single-family residence. The premises are located at 4 Truman Circle, Blauvelt, New York an identified on the Orangetown tax Map as Section 69.16, Block 1, Lot 59; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 21, 2011 at which time the Board made the determination hereinafter set forth.

Robert Hoene, Architect, and Raffaele Cuomo appeared and testified.

The following documents were presented:

1. Survey dated 11/17/2004 signed and sealed by Jay Greenwell, LS.
2. Architectural plans dated 06/06/2011 signed and sealed by Robert Hoene, Architect.
3. A letter in support of the application dated September 13, 2011 signed by five abutting property owners.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Ms. Castelli 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), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Warren, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, aye. Mr. Sullivan and Ms. Albanese were absent.

Robert Hoene, Architect, testified that the proposal is for a renovation and addition of a one car garage and small family room with a second floor over the existing structure; that

the variance is caused because they are working off of the existing foundation; that the proposed one car garage was pushed back to minimize its effect but couldn't be pushed back any further because the entrance to kitchen off of the garage needed to line up; that the house sits close to the side yard and affords a 23' side yard on that side without the one car garage; that the driveway is already on that side and that this area affords the addition of the garage and family room because it works the best with the existing house.

Raffaele Cuomo testified that they have owned the house for eight years; that presently there are three in the family and his wife is expecting their second child; that the distance to the neighbor's house is approximately 27 feet; and the house was built off center of the lot.

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 Ms. Castelli 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 existing house was built off center of the property; the driveway is existing and this is the most logical place to construct the new garage for access into the existing house.
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 existing house was built off center of the property; the driveway is existing and this is the most logical place to construct the new garage for access into the existing house.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. Although the property is large, the house was constructed off center on the property and in order to add a garage at the existing driveway a side yard variance was unavoidable.
4. The requested side yard variance is not substantial. The existing house was built off center of the property; the driveway is existing and this is the most logical place to construct the new garage for access into the existing house.
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; 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. Castelli, seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Mr. Warren, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Mr. Sullivan 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: September 21, 2011

DECISION

FLOOR AREA RATIO AND SIDE YARD VARIANCES APPROVED

To: Thidupil and Sosamma Mathew

ZBA # 11-79

32 Renie Lane
Blauvelt, New York 10913

Date: September 21, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-79: Application of Thidupil and Sosamma Mathew for variances from Chapter 43 (Zoning), Section 3.12, Group M, Columns 4 (Floor Area ratio: .20 permitted, .234 proposed), 9 (Side Yard: 20' required, 18.4' proposed) for the addition of a roof over an existing patio at an existing single-family residence. The premises are located at 32 Renie Lane, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.13, Block 2, Lot 13.2 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 21, 2011 at which time the Board made the determination hereinafter set forth.

Thidupil Mathew appeared and testified.

The following documents were presented:

1. Site plan from Pierce Park Homes.
2. Three pages of hand drawn plans of the proposed roof-over patio structure.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Ms. Castelli 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), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Warren, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, aye. Mr. Sullivan and Ms. Albanese were absent.

Thidupil Mathew testified that he would like to build a roof over the existing patio; that his children live in Blauvelt and when they visit he would like a place to entertain outside that is shaded; that he also has a problem with rain in the basement and roofing over the patio may help to end that problem.

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 Ms. Castelli 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 side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The slight increase in floor area ratio, and small encroachment into the side yard, seems reasonable, considering it shall provide a roofed over area for company and also help to eliminate a water problem for the homeowner.
2. The requested floor area ratio and side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The slight increase in floor area ratio, and small encroachment into the side yard, seem reasonable, considering it shall provide a roofed over area for company and also help to eliminate a water problem for the homeowner.
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 side, rear and front yards were determined at the time that the Pierce Park Home Subdivision was before the Planning Board and these determinations caused the need for one of the variances.
4. The requested floor area ratio and side yard variances are not substantial. The slight increase in floor area ratio and small encroachment into the side yard, seem reasonable, considering it shall provide a roofed over area for company and also help to eliminate a water problem for the homeowner.
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 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 floor area ratio and side yard variances was presented and moved by Mr. Warren, seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Mr. Warren, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Mr. Sullivan 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: September 21, 2011

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By _____
Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR

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

