

DECISION

**LOT AREA, LOT WIDTH, STREET FRONTAGE, FRONT YARD, SIDE YARD,
TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED**

To: Christopher Sheehan
19 Staubitz Avenue
Pearl River, New York 10965

ZBA # 09-61
Date: 9 / 23 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-61: Application of Christopher Sheehan for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, Group M, R-15 District, Group M, Columns 5 (Lot Area: 15,000 sq. ft. required, 10,500 sq. ft. existing), 6 (Lot Width: 100' required, 70' existing), 7 (Street Frontage: 75' required, 70' existing), 8 (Front Yard: 30' required, 26.4' existing, 24.4' proposed), 9 (Side Yard: 15' required, 2.5' existing) (Section 5.21c applies), 10 (Total Side Yard: 30' required, 14.8' existing) and 12 (Building Height: 20' permitted, 22.3' proposed), (Section 5.21 undersized lot applies) for an addition to existing single-family residence. The premises are located at 19 Staubitz Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.10, Block 1, Lot 50; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 23, 2009 at which time the Board made the determination hereinafter set forth.

Christopher and Nicole Sheehan and Robert Hoene, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 7/19/09 (1 page) signed and sealed by Robert Hoene, Architect.
2. Survey dated May 24, 2002 signed and sealed by Robert E. Sorace, L.S.

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), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Mr. Sullivan and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Sullivan; aye; and Mr. Mowerson, aye.

Robert Hoene, Architect, testified that the Sheehan's are proposing to add a bedroom and bath above the existing garage; that they are expecting their first child in two months and need the additional space; that these houses were built as kit houses and a second story cannot be built above the existing house without re-enforcing the entire building; that the garage was built after the house and structurally can hold a second story; and that all of the set back variances are for existing conditions; the front yard and building height are the only new requests.

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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. Salomon and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

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

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

General Conditions:

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

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

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

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

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

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The foregoing resolution to approve the application for the requested lot area, lot width, street frontage, front yard, side yard, total side yard and building height variances was presented and moved by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, 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: September 23, 2009

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 -M.M.

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

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