

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH ZONING BOARD OF APPEALS

----- X  
In the Matter of

GILBERT & JEANNE HALSTEAD

317 Lakeside Road  
Section 50; Block 1; Lot 11  
R-3 Zone

----- X  
AREA VARIANCE

Date: November 22, 2005  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: GRACE CARDONE, Chairperson  
RUTH J. EATON  
JOHN MCKELVEY  
ROBERT A. KUNKEL  
RON HUGHES

ALSO PRESENT: CAROLYN MARTINI, ESQ.  
FRAN BAKKER, ZBA Secretary  
BETTY GENNARELLI, ZBA Secretary  
GERALD CANFIELD, Code Compliance  
Supervisor

----- X  
MICHELLE L. CONERO  
Court Reporter  
72 River Glen Road  
Wallkill, New York 12589  
(845) 895-3018

1  
2                   CHAIRPERSON CARDONE: I would like to  
3 call the meeting of the ZBA to order. The first  
4 order of business is a public hearing scheduled  
5 for today. The procedure of the Board is that  
6 the applicant would step forward, state their  
7 request. The Board may then ask questions of the  
8 applicant, then the public will be invited to  
9 make comments or ask questions. In so doing they  
10 should state their name and their address. We  
11 will try to make a decision tonight, however we  
12 have up to 62 days to make a decision.

13                   Our first applicant tonight is Gilbert  
14 and Jeanne Halstead.

15                   MR. COPPOLA: I'm Jay Coppola and I  
16 live at 30 Tenbrouck Lane on Orange Lake. My  
17 son, Mr. Coppola, Mark Coppola, is buying a house  
18 from Gilbert and Jeanne Halstead. The house is  
19 existing at 317 Lakeside Road.

20                   The present house is a cottage, an  
21 original cottage, original dating back to 1900.  
22 The present cottage as I've outlined here, this  
23 is the survey from Mr. Yanosh, is in the red here  
24 or light color. It's 38 feet in front of Mr.  
25 Caltagirone, which is to the south, and about

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

GILBERT & JEANNE HALSTEAD 3

26 feet in front of the house to the north. The reason being, and it's only hearsay, this cottage many years ago was transported from another location on the lake across the ice and put on this property and that's as far back as they could get it. It's only hearsay. It definitely dates back to the 1900s.

These are pictures showing the view of the house from the house to the south. This is taken from his porch looking north. It pretty much blocks the view. This is the house to the north looking south. This is a picture looking south. It pretty much blocks the view to the north.

What we're proposing is to build a year-round house and move the house back, not solely for the reason of being a good neighbor, which is in fact part of it, but to get a front yard and to use the front yard for the benefit of the lake.

These are the present angles of view of the two houses on either side. This is what happens when the house is moved back approximately 20 feet. It definitely gives a

1  
2 better view, which is the whole issue of the  
3 lake.

4 I'm also with the Orange Lake Civic  
5 Association specifically with zoning and we've  
6 instituted a few local laws for view protection  
7 and other zoning issues.

8 This is a blow up of that done by Mr.  
9 Shaw.

10 The variances requested to build the  
11 year-round house -- Mr. Coppola has got a house  
12 that is now 27 foot wide. The lot is a very  
13 small lot at 38 foot on an angle. When you take  
14 the perpendicular dimension it's approximately 37  
15 foot across. So it's a problem lot to begin  
16 with, that's for sure.

17 The house is elongated for another  
18 reason. Mr. Coppola wishes to put his boat --  
19 the back of this house is 30 foot of garage, to  
20 put the boat in the garage as well as his car.  
21 Protect the boat, keep the boat out of the view.  
22 As you drive along Orange Lake you do see a lot  
23 of different views. Orange Lake, you drive down  
24 Lakeside Road and primarily what you see are  
25 garages. Quite frankly, I just noticed it when I

1 was putting together this presentation. Lakeside  
2 Road is the backyard. These garages that you're  
3 looking at, we all know the zoning for an  
4 accessory building, these are side-by-side  
5 garages. They are right on the road. You drive  
6 down and you see boats in the backyard this time  
7 of year because people leave them there. So Mr.  
8 Coppola is, at his expense, going to put the boat  
9 out of sight and into the garage.  
10

11 This happens to be the foundation of  
12 the existing cottage. You can wrinkle your eye  
13 because there's nothing there. It's a wedge  
14 under post on a rock. It definitely is something  
15 that should be addressed. In my presentation I  
16 don't know if it would meet today's codes, I  
17 really don't.

18 This is a house as we look to the  
19 north. It's a rather large house, very nice one.

20 One of the requests is for a variance  
21 on the side yards. These are pictures taken all  
22 around the lake, not just in a specific area.  
23 They are much closer together than what we are  
24 requesting.

25 This right here is my house on the

1 lake, 30 Tenbrouck Lane. My neighbor who was  
2 here before had knocked down the existing house.  
3 This addition is 3 foot 9 inches from this  
4 property line. This is the other side of my  
5 house. Jointly we have half of the distance that  
6 will remain when the -- if and when this house  
7 gets put up at 27 feet. These houses are all  
8 closer together. It's just a visual which is  
9 worth a lot of words.  
10

11 Bottom line is the original layouts of  
12 Orange Lake were for cottages. Because of my  
13 association with the Orange Lake Civic  
14 Association, I have researched the original maps  
15 that go back to 1928. They're all 25-foot lots.  
16 This lot was a little bigger for whatever reason.  
17 Other lots were put together obviously to get the  
18 lots that are somewhat bigger.

19 What has happened over the years is the  
20 lake has evolved into a year-round community with  
21 some beautiful, beautiful homes. We have one  
22 home that exceeds \$1,000,000 on the lake. That's  
23 what's happening on the lake.

24 What Mr. Coppola is trying to do is no  
25 more than what the lake has evolved in, and that

1  
2 is to make year-round community, make a nice  
3 home, improve the area, and by virtue of getting  
4 a front yard push the house back to some benefit  
5 from the neighbors.

6 This is a rendering showing the house  
7 as it stands out in photograph and a rendering  
8 trying to show how the house will look setback  
9 and show it pretty much in line with the other  
10 houses. It will be in front but 20 foot back  
11 from where it exists now.

12 So I will take any questions.

13 CHAIRPERSON CARDONE: Do we have  
14 questions from the Board?

15 MR. HUGHES: I have one question. It's  
16 a clarification more than a question. Mr.  
17 Coppola doesn't own the property at present?

18 MR. COPPOLA: Right now Mr. Coppola is  
19 in contract with Mr. Halstead and the contract is  
20 contingent on a favorable variance being passed  
21 and he will then close on the property.

22 MS. EATON: Is there water and sewage  
23 to this?

24 MR. COPPOLA: There is water and sewer  
25 now to it, yes. He has a master pump that is

1 located here. In fact, it's indicated on the --  
2 from Mr. Yanosh, it's indicated right here and it  
3 is tied into the water.  
4

5 MR. McKELVEY: You are pulling it back  
6 and making the view of the lake better.

7 MR. COPPOLA: Oh, absolutely. Here it  
8 is right here. Making the view of the lake  
9 better, taking the boat and everything off the  
10 lake, putting it inside the garage.

11 This is a stonewall that will be built  
12 with an entrance gate 25 foot back from the road.  
13 The reason for that is twofold. As we come out  
14 of this driveway and other driveways, the  
15 neighbor to the north has a beautiful stonewall  
16 here, a gate, but it actually blocks your line of  
17 sight being right at roadside. So we've pushed  
18 this back for two reasons, for line of sight and  
19 when somebody comes in they can pull off the road  
20 before entry in, and vice versa coming out. So  
21 we've given it a little thought hopefully to make  
22 the start of a better area on Orange Lake.

23 MS. EATON: The garage that you're  
24 speaking about for the boat --

25 MR. COPPOLA: It's right here. It is



1 -- on this side it's 30 foot for the garage. On  
2 this side it is I think 24 foot plus this is an  
3 open area for entry. There's a door coming in  
4 this way, there's a door going in this way. So  
5 it will be part of the house.  
6

7 MS. EATON: Thank you.

8 MR. COPPOLA: And we will not have any  
9 buildings down here like I showed you in the  
10 other drawings of the garage. There will be no  
11 structures down here lakeside -- Lakeside Road  
12 side.

13 CHAIRPERSON CARDONE: Do we have any  
14 questions or comments from the public? Yes.  
15 Please state your name and address.

16 MR. CALTAGIRONE: I'm Peter  
17 Caltagirone. I live right next door on the south  
18 side.

19 When you're asking for a variance, I  
20 can't see from here but how close to the -- how  
21 close is the new house to my property?

22 MR. COPPOLA: Okay. Presently --

23 MR. CALTAGIRONE: How much area on each  
24 side of the house do you have and what are the  
25 present setbacks?

1  
2 MR. COPPOLA: Okay. Right now -- that  
3 drawing doesn't show it. I'll pull out the --

4 CHAIRPERSON CARDONE: Would he be on  
5 the side that's reduced by 1.14 feet or the one  
6 reduced --

7 MR. COPPOLA: Correct. To answer Mr.  
8 Caltergerone's question I'll get the actual --  
9 right now the existing house is 6 foot 3 and it  
10 will end up 5.16 which is 5 foot 2 inches. It's  
11 changed by 1 foot plus, Peter.

12 MR. CALTAGIRONE: It seems to me that  
13 -- I don't know if that is correct because the  
14 present house there, it seems like it's 4 feet  
15 from my property line.

16 MR. COPPOLA: Well, this is a certified  
17 survey by Mr. Yanosh saying it is 6.3. 6.3 is  
18 255 -- 3 5/8 inches.

19 MR. CALTAGIRONE: How wide is your  
20 house? How wide is this new house?

21 MR. COPPOLA: The existing house is  
22 about 21 feet. We're requesting a 27-foot house  
23 so it can be a year-round house. There's more on  
24 the other side because on the other side there  
25 was 10 foot -- 10.5 feet, so there's more being

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

taken on the other side. It's centered on the lot now. This other house was not centered on the lot.

MR. CALTAGIRONE: It just doesn't seem like that could be correct.

MR. COPPOLA: Would you like to look?

MR. CALTAGIRONE: I would like to look at it.

MR. COPPOLA: Sure. The tree takes up all that 6 feet.

MR. CALTAGIRONE: The problem with this is I think part of the oak tree is on my property.

MR. COPPOLA: It could be.

MR. CALTAGIRONE: I don't think that's correct. My survey says that I own 13 1/2 feet off the front edge of this porch.

MR. COPPOLA: Let me see. We've got that, too.

MR. CALTAGIRONE: Do you have that survey?

MR. COPPOLA: No. I've got what this surveyor came up with. Give me a minute.

MR. CALTAGIRONE: What are the current

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

GILBERT & JEANNE HALSTEAD

12

side setbacks for the zoning?

MR. COPPOLA: The current setbacks for the zoning -- the bulk zoning, is that what you're asking me?

MR. CALTAGIRONE: Is it R-3 zoning?

MR. COPPOLA: This is presently R-3 zoning, yes.

MR. CALTAGIRONE: What are the setbacks for it?

MR. COPPOLA: Side yard, one 15 foot, both 30 foot, meaning 15 and 15.

MR. CALTAGIRONE: 15?

MR. COPPOLA: Existing doesn't meet it.

MR. MCKELVEY: It's nonconforming.

MR. CALTAGIRONE: Right. That house was put there in the 1800s.

MR. COPPOLA: Yeah. I saw a postcard 1905. All three of your houses were there.

MR. CALTAGIRONE: I have a 1903 postcard.

MR. COPPOLA: Mr. Yanosh has your house 12.1 feet from your property line.

MR. CALTAGIRONE: I think that's wrong.

MR. COPPOLA: Again, it's a certified

1 survey. Obviously surveyors don't always agree.

2  
3 MR. CALTAGIRONE: Mine says 13 1/2  
4 feet. See, I have a problem with that. I have a  
5 problem with that because my old neighbor who  
6 used to live in the house, every time he used to  
7 come out and walk the dog, they used to come out,  
8 turn south and walk on my property and I would  
9 wind up with dog defecation.

10 MR. COPPOLA: We have that in our  
11 neighborhood on Tenbrouck Lane.

12 MR. CALTAGIRONE: My concern is that  
13 there should be, you know, enough side setback so  
14 people can walk through either side of the house.

15 MR. COPPOLA: Presently there's only 6  
16 feet. 6 foot 3 1/2 inches.

17 MR. CALTAGIRONE: I don't know exactly  
18 how to settle it but my survey says something  
19 different. It says 13 1/2 feet.

20 MR. COPPOLA: Okay. But that's the  
21 property line on your side.

22 CHAIRPERSON CARDONE: The issue is  
23 regardless of how many feet that we're talking  
24 about that you have an issue with that, and you  
25 both have a different survey, is that it's

1 approximately 1 foot closer than it is right now?

2 MR. CALTAGIRONE: 1.7.

3 CHAIRPERSON CARDONE: 1.14 I believe.

4 MR. McKELVEY: 1.14.

5 MR. CALTAGIRONE: I object to that.

6 MR. COPPOLA: You object to me --

7 MR. CALTAGIRONE: I object to the house  
8 being closer than it is now because it already is  
9 close.

10 MR. COPPOLA: That's a legitimate  
11 objection.

12 MR. CALTAGIRONE: I think there's a  
13 discrepancy in the surveys because I have a  
14 survey -- I guess I should have brought it. It  
15 says I have 13 1/2 feet off the corner of the  
16 porch which is exactly where this fellow took a  
17 reading, the corner of the house.

18 MR. COPPOLA: That's where he's showing  
19 it. You're correct.

20 MR. CALTAGIRONE: The corner of the  
21 house by the porch.

22 MR. COPPOLA: Well, what he's also  
23 showing, Peter, if you look at this, the houses  
24 aren't parallel. On the back side he's showing  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

GILBERT & JEANNE HALSTEAD

15

11 foot something. On the east -- west side he's showing --

MR. CALTAGIRONE: I understand that.

MR. COPPOLA: None of the houses are parallel. Innis isn't parallel.

MR. CALTAGIRONE: I understand that.

MR. COPPOLA: All I can really -- and I had the surveyor put this on to show us the total distance from building to building. That's why we have this information. This original certified survey does not have it on. I made him do a new one, not anticipating this question but anticipating our decision on how far apart are the buildings. That's why we have the information here --

MR. CALTAGIRONE: Right.

MR. COPPOLA: -- but from our surveyor.

MR. CALTAGIRONE: Right.

MR. COPPOLA: What do you suggest?

MR. CALTAGIRONE: I do not want the house closer to my property.

MR. COPPOLA: 1 foot is offensive?

MR. CALTAGIRONE: Yeah.

MR. COPPOLA: Okay.





1 live at 321 Lakeside. Just a question. How many  
2 stories is the house? Is it a single story?  
3

4 MR. COPPOLA: It's actually two stories  
5 but not two full stories. The front section  
6 going back is only one story with a cathedral  
7 ceiling. This is a better view. The master  
8 bedroom, and a guest room, and bathroom are up in  
9 here and then the garage is just a garage. So  
10 it's only one third of the second floor is two  
11 stories.

12 MR. MOORE: And as you move the house  
13 back are there plans for anything in front of the  
14 house to the lake or is that just going to be a  
15 grassy yard, patio?

16 MR. COPPOLA: Deck, grass.

17 MR. MOORE: Is it going to set at  
18 ground level? Like will you enter on ground  
19 level or do you have to step up into the house?

20 MR. COPPOLA: Well, there will be a  
21 step up into it from the lakeside but not from  
22 the roadside.

23 MR. MOORE: Okay. Thank you.

24 MR. COPPOLA: Yup.

25 CHAIRPERSON CARDONE: Yes.

1  
2 MR. TOPOROWSKI: My name John  
3 Toporowski, I live at 318 Lakeside, directly east  
4 of the proposed building. I have a couple  
5 questions.

6 As you mentioned earlier Jay, you're  
7 part of the Orange Lake Civic Association.

8 MR. COPPOLA: Yes.

9 MR. TOPOROWSKI: You mentioned that  
10 some newly adopted site preservation ordinances  
11 were incorporated into the Town zoning laws.

12 MR. COPPOLA: That's correct.

13 MR. TOPOROWSKI: What exactly is that?  
14 Could you be more specific as to what the height  
15 limitations are?

16 MR. COPPOLA: No, it's not in the  
17 height limitations. What was in effect is part  
18 of an addendum to actually a boat mooring law was  
19 the approach to accessory buildings that were  
20 lakeside. What was instituted was if an  
21 accessory building, or a planter, or a fence were  
22 put lakeside, it could only be 4 foot high.  
23 Gazebos, these boat houses that we already have  
24 block this view that we're trying to increase  
25 here. If you put a gazebo here you would have to

1  
2 come in front of this Board now to hear the  
3 public speak if you wanted to put something there  
4 that was more than 4 foot. That is only for an  
5 accessory building and that is within the setback  
6 area from the lake, and we have a problem with  
7 that because zoning should be addressed. This is  
8 the front of the house on the lake and this is  
9 the back.

10 MR. TOPOROWSKI: Could you answer me  
11 this. The proposed building, the new building  
12 that's going to go on site, how much higher is it  
13 than the existing structure?

14 MR. COPPOLA: Higher than the existing  
15 structure? I can't tell you exactly. I can tell  
16 you we will be 33 foot or lower.

17 MR. TOPOROWSKI: 33 foot will be at the  
18 peak?

19 MR. COPPOLA: Yes. The highest point.

20 MR. TOPOROWSKI: What exactly is the  
21 square footage of that proposed building?

22 MR. COPPOLA: The building is -- with  
23 garage I think it's 2,500 feet. I do have it so  
24 I'm not just fumbling. Yeah, the total is 2,554,  
25 meaning the garages, upstairs, everything.

1  
2 MR. TOPOROWSKI: That sounds like a  
3 three bedroom, four bedroom.

4 MR. COPPOLA: We have four bedrooms in  
5 there, but we have 30 by -- I forget how deep it  
6 was. We've got 900 square feet of garage in just  
7 the boat and then we have a car garage. So  
8 you've got about 1,200 feet of garage that could  
9 be roadside and be offensive. We could put a  
10 garage. Well, with the variances being approved.

11 MR. TOPOROWSKI: Thank you. That  
12 answers my question.

13 MR. COPPOLA: Okay. Thank you.

14 CHAIRPERSON CARDONE: Are there any  
15 other questions or comments?

16 (No verbal response.)

17 CHAIRPERSON CARDONE: Anything further  
18 from the Board?

19 (No verbal response.)

20 CHAIRPERSON CARDONE: I declare this  
21 part of the hearing closed. Thank you.

22 MR. COPPOLA: Thank you very much for  
23 listening.

24 (Time noted: 7:25 p.m.)

25 (Resumption for decision: 8:55 p.m.)

DECISION RENDERED AS FOLLOWS:

CHAIRPERSON CARDONE: The Board is resuming its regular meeting.

On the first application of Gilbert and Jeanne Halstead seeking a variance at 317 Lakeside Road, permission to demolish the existing cottage and erect a new residence. This is a Type II action under SEQRA.

I have a further question on this. Is there going to be a basement?

MR. COPPOLA: No, there is not.

CHAIRPERSON CARDONE: Thank you.

MR. COPPOLA: Excuse me. There is going to be a crawl space, not a basement, just to access the pipes.

CHAIRPERSON CARDONE: Do we have discussion on this application?

MR. MCKELVEY: I think by moving the building back and giving more view of the lake is a plus, what you've been looking for over there.

MR. COPPOLA: Can I speak? We spoke with Mr. Caltagirone outside and actually showed him the survey. I didn't realize it at the time

1 but the surveyor picked up his chisel point and  
2 his rod and was using that as the property line  
3 and confirmed it. I gave him a copy of that that  
4 showed it. So his comment was somewhat answered.  
5

6 CHAIRPERSON CARDONE: Do we have any  
7 further discussion on this application?

8 MR. HUGHES: Are you going to put  
9 footings in there or piers?

10 MR. COPPOLA: No. It's footings, wall  
11 bearing footings, continuous footings with a  
12 block four foot front.

13 CHAIRPERSON CARDONE: Do I have a  
14 motion for approval on this application?

15 MR. MCKELVEY: I'll make a motion we  
16 approve.

17 CHAIRPERSON CARDONE: Do I have a  
18 second?

19 MS. EATON: I'll second.

20 CHAIRPERSON CARDONE: All those in  
21 favor please say aye.

22 MS. EATON: Aye.

23 MR. MCKELVEY: Aye.

24 MR. KUNKEL: Aye.

25 MR. HUGHES: Aye.

CHAIRPERSON CARDONE: Aye.

Opposed?

(No verbal response.)

CHAIRPERSON CARDONE: The motion is  
carried.

MR. COPPOLA: Thank you.

(Time noted: 8:57 p.m.)

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand  
Reporter and Notary Public within and for  
the State of New York, do hereby certify  
that I recorded stenographically the  
proceedings herein at the time and place  
noted in the heading hereof, and that the  
foregoing is an accurate and complete  
transcript of same to the best of my  
knowledge and belief.

Michelle Conero

DATED: December 2, 2005

**TOWN OF NEWBURGH  
ZONING BOARD OF APPEALS**

-----X  
In the matter of the application of:

**DECISION AND RESOLUTION**

GILBERT and JEANNE HALSTEAD

Tax Map #50-1-11

for an area variance to the rear, side yard, and  
and lot width requirements to construct a single  
family residence, Article IV, Section 185-11 Table  
of Use and Bulk Regulations, "R-3" District.

B.I. # 1684-05

-----X  
The property which is the subject of this application is located at 317 Lakeside Road, Newburgh, New York and is designated on the tax map as Section 50, Block 1, Lot 11. It is located in the "R-3" Zone.

The applicants are the owners of the subject lot. The prospective purchaser, Mark Coppola, proposes to demolish the existing family home and construct a new three bedroom residence with a rear yard setback of 23 feet, a lot width of approximately 37 feet, with one side yard reduced by 1.14 feet and the other side yard reduced by 5.34 feet respectively on an area lot of 11,160 square feet. Applicants' proposal will require area variances as the required rear yard setback is 40 feet, required lot width is 85 feet, and required side yards is 15 feet on one side and required lot area is 12,500 square feet for a home with both public sewer and town water in an "R-3" Zone. Article IV, Section 185-11.

A public hearing on the application was scheduled for November 22, 2005 at the Town Hall, 1496 Route 300, Newburgh, New York. Notice of said public hearing, including the subject, date, place and time, was duly published and mailed. Proper affidavits of publication and mailing have been received from the applicants.

A public hearing was heard on November 22, 2005. Mr. Jay Coppola appeared and testified before the Board on behalf of the applicants and Mark Coppola, the prospective purchaser of the lot. The testimony and exhibits at the public hearing established that the existing cottage on the subject property is non-conforming as to district regulations for lot area, lot width, side and rear yard. Prospective purchaser proposes to demolish the existing cottage in order to build a custom three bedroom single family dwelling. Applicants propose to set the



home further back from Orange lake by approximately 20' than the original cottage. By moving the house back applicants will increase their front yard and at the same time the move enables the neighbors to a better view of the lake. In addition, the proposed location of the home will be in uniformity with the setbacks of other homes in the surrounding neighborhood. According to the applicants' surveys, both the existing house and the proposed house are approximately 12.1' away from Mr. Peter Caltagirone's property line, their neighbor to the south. However, Mr. Caltagirone objected to applicants' survey, stating that his survey, which is dated earlier than applicants' survey indicates that his property line is 13 ½ feet and not 12.1 feet from applicant's house. The Board was unable to determine the legitimacy of Mr. Caltagirone's claim as Mr. Caltagirone was unable to supply his survey at the November 22, 2005 hearing. Regardless of the survey issue raised during the hearing, (and alleged discrepancy of approximately 1.4') the fact remains that the newly constructed home will be approximately the same distance from Mr. Caltagirone's property line as the existing cottage. The public hearing was closed on November 22, 2005 but Mr. Caltagirone supplied his survey of December 10, 1980 at the Board's next scheduled meeting on December 22, 2005 along with a letter dated December 22, 2005 notifying the Board that the minutes had to be amended in order to reflect his statements accurately. Corrections on the minutes have subsequently been made and the Board made a motion on January 26, 2006 to accept the minutes as amended.

The Board unanimously determines that the proposed action is a Type II action under SEQRA. The Board determines that this is an application for area variances and that the criteria which the Board must consider in determining whether or not to grant the variances is the factors set forth in Town Law Section 267-b. In considering the benefit to the applicants if the variances are granted as weighed against the detriment to the health, safety and welfare of the neighborhood and community by such grant, the Board has considered the following five factors:

**I. WHETHER AN UNDESIRABLE CHANGE WILL BE PRODUCED IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES WILL BE CREATED BY GRANTING OF THE VARIANCE?**

The proposed area variances will not produce an undesirable change in the character of the neighborhood. The proposed new house will increase the neighbors' line of sight to the lake

and the proposal to place the house further back will be more consistent with the setbacks of the surrounding neighborhood.

**II. WHETHER THE BENEFIT SOUGHT BY THE APPLICANT CAN BE ACHIEVED BY SOME METHOD FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE?**

The benefit sought by the applicants can not be achieved by some method feasible for the applicants to pursue other than the requested area variances. Applicants' lot is too small to meet current zoning. The existing lot is irregular having a width, when measured perpendicular to the sidelines, of approximately 37 feet while having an average length of approximately 299 feet.

**III. WHETHER THE REQUESTED AREA VARIANCE IS SUBSTANTIAL?**

The requested area variances are substantial. However, this factor alone does not require denial of the requested variances.

**IV. WHETHER THE PROPOSED VARIANCE WILL HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD?**

The proposed variances will not have an adverse effect on the physical and environmental conditions in the neighborhood. The physical character of the neighborhood will be enhanced by the building of a new home and by setting the house further back, the neighbors' views of the lake will be improved. Applicants' proposal is consistent with the general property upgrading that has been taking place around the lake over the years as more owners desire to establish year round homes on Orange Lake.

**V. WHETHER THE ALLEGED DIFFICULTY WAS SELF-CREATED?**

The alleged difficulty is self-created. However, this Board declines to give significant emphasis to this consideration based upon the unique facts of this case.

RESOLUTION

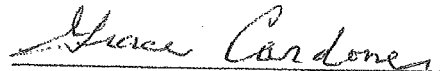
The Board hereby grants applicants' request to demolish the existing cottage and construct a single family dwelling with the following area variances: 1) rear yard setback of 23'; 2) minimum lot width of approximately 37 feet; 3) side yard setbacks reduced by 1.14 and 5.34 feet respectively and 4) lot area of 11,160 square feet.

The Board finds that such variance is the minimum necessary to address the circumstances of this application.

Present and Voting on motion to approve application:

Grace Cardone	Aye
Ruth Eaton	Aye
Robert Kunkel	Aye
John McKelvey	Aye
Ronald Hughes	Aye

Dated: February \_\_\_\_\_ 2006  
Newburgh, New York

  
GRACE CARDONE Chairwoman  
Town of Newburgh, Zoning  
Board of Appeals