

## SIDE YARD VARIANCE APPROVED AS MODIFIED WITH CONDITIONS

To: Helen Strilec Schatiloff  
86 Old Middletown Road  
Pearl River, New York 10965

ZBA #23-33  
Date: September 20, 2023  
Permit # BLDR-1780-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 23-33: Application of Helen Strilec Schatiloff for a variance from Zoning Code (Chapter 43) of the Town of Orangetown, Section 3.12, R-15 District, Group M, Column 9 ( Side Yard: 20' required, 11.9' proposed: 13' granted ) for an addition to an existing single-family residence. The premises are located at 86 Old Middletown Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.17, Block 5, Lot 34 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, September 20, 2023 at which time the Board made the determination hereinafter set forth.

Helen Strilec Schatiloff appeared and testified.

The following documents were presented:

1. Plans labeled "86 Old Middletown Road, Pearl River, NY Rear Yard Addition" dated 05/30/2023 with the latest revision date of 06/14/2023 signed and sealed by Arben Sela, R.A. ( 1 page)
2. A letter dated September 19, 2023 from Rockland County Sewer District No. 1 signed by Nicholas King, Engineer I.
3. A "No comments at this time" from Dyan Rajasingham, Rockland County Highway Department, dated September 8, 2023.
4. A "No comments at this time , Please send future correspondence for review" from Rockland County Health Department signed by Liz Mello dated August 21, 2023.
5. Three letters from neighbors in support of the application.
6. Eleven pages of construction documents for 86 Old Middletown Road.
7. Two artist sketches of the proposed addition.
8. Six computer generated pictures of the property.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan 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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

Helen Strilec Schatiloff testified that she needs a bathroom on the first level of the house; that after speaking with the architect, she decided to add an insulated garden room with radiant heat and a bathroom with a shower; that in order to accomplish this and still have access to the basement Bilco doors they designed a 6' wide hallway to the garden room, which allows light into the basement area and access to store outside summer furniture at the end of the season; that the garage was built at least 36 years ago but is not original to the house; that the previous owner of the house, Leroy Van Zandt, was an Oil Company Chairman and drove a very large car, and he added onto the rear of the garage to accommodate his car; that the rear of the garage is uneven and damaged by animals and will be repaired and shortened when the addition is being constructed; that she does not need a four foot wide staircase and can change them to a three foot wide stair or whatever meets the New York State Building Code in order to lessen the requested variance; that she wanted that staircase to access her compost bin in the rear of the house and to bring in groceries.

Public Comment:

Ed Pasocello, representing his mom at 83 Mountain View, property that directly abuts the applicant to the east; that he just wants to make sure that the proposed addition does not negatively impact his mother's property; that the rules apply for a reason and should be honored; that this may take away his mothers' privacy and the plans could be scaled back and built without a variance; and he asked if the garage will be remaining

Mike Bosco explained that the stairs are the reason the variance is being requested; and that the applicant stated that she is going to repair the garage which faces the Pasocello's property; and that the location of the addition is such to allow use of the existing Bilco doors into the basement.

The Board had a discussion about the width of the proposed stairway with the applicant and asked the applicant to reduce the width of the stairs to three-foot-wide or the minimum permitted by the New York Building Code in order to reduce the requested side yard from 11.9 to 13 feet.

The applicant agreed to this and to reduce the rear of the garage and repair it with a straight back, decreasing the pre-existing non-conforming set back from zero.

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. Sullivan 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 as modified will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed addition is in the rear of the house and does not extend beyond the existing house and the applicant has agreed to decrease the width of the proposed staircase from four foot to three foot (or that permitted width of stairs according to NYS Building Code) in order to decrease the requested side yard variance from 11.9' to 13'. The applicant also agreed to repair the pre-existing non-conforming detached garage and remove part of the rear of the building that is in need of repair and rebuild it squared off to provide a 1'4" distance from the rear property line.
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 proposed addition is in the rear of the house and does not extend beyond the existing house and the applicant has agreed to decrease the width of the proposed staircase from four foot to three foot (or that permitted width of stairs according to NYS Building Code) in order to decrease the requested side yard variance from 11.9' to 13'. The applicant also agreed to repair the pre-existing non-conforming detached garage and remove part of the rear of the building that is in need of repair and rebuild it squared off to provide a 1'4" distance from the rear property line.

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 variance although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The proposed addition is in the rear of the house and does not extend beyond the existing house and the applicant has agreed to decrease the width of the proposed staircase from four foot to three foot (or that permitted width of stairs according to NYS Building Code) in order to decrease the requested side yard variance from 11.9' to 13'. The applicant also agreed to repair the pre-existing non-conforming detached garage and remove part of the rear of the building that is in need of repair and rebuild it squared off to provide a 1'4" distance from the rear property line.
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 variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested side yard variance as MODIFIED to 13' is APPROVED; and FURTHER RESOLVED, that the applicant will repair and reduce the rear of the pre-existing non-conforming garage to permit a 1'4" and 1' 3' rear 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.

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(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 13' is APPROVED with the SPECIFIC CONDITION that the applicant will repair and reduce the rear of the pre-existing non-conforming garage to permit a 1'4" and 1' 3' rear yard; was presented and moved by Mr. Bonomolo, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, 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 20, 2023

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-G.M.

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

TOWN CLERK'S OFFICE  
2023 SEP 26 P 12:50  
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