

MINUTES
ZONING BOARD OF APPEALS
JUNE 5, 2019

MEMBERS PRESENT: DAN SULLIVAN
PATRICIA CASTELLI,
LEONARD FEROLDI, ALTERNATE
JOAN SALOMON

ABSENT: THOMAS QUINN
MICHAEL BOSCO

ALSO PRESENT: Anne Marie Ambrose, Official Stenographer
Deborah Arbolino, Administrative Aide
Denise Sullivan, Deputy Town Attorney

This meeting was called to order at 7: 00 P.M. by Mr. Sullivan, Chairman.
Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEM:

O'SULLIVAN
38 Marycrest Road
West Nyack, NY
69.06 / 2 / 53; R-22 zone

FRONT YARD VARIANCE
APPROVED

ZBA#19-43

SEVENTH DAY ADVENTIST
CHURCH SIGN
210 Old Middletown Road
Pearl River, New York
69.09 / 2 / 52; R-15 zone

CONTINUED

ZBA#19-47

NEW ITEMS:

O'KEEFE
60 Meyer Oval
Pearl River, NY
72.08 / 2 / 22; RG zone

FLOOR AREA RATIO
VARIANCE APPROVED

ZBA#19-51

HAYES
624 Western Highway
Blauvelt, New York
70.09 / 3 / 41.2/40; R-15 zone

FLOOR AREA RATIO
VARIANCE APPROVED

ZBA#19-52

TOWN OF ORANGETOWN
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ANDA REALTY AMENDMENT
153 East Central Avenue
Pearl River, NY
68.16 / 6 / 39; CS zone

SIDE YARD AND TOTAL
SIDE YARD APPROVED AS AMENDED
WITH SPECIFIC CONDITIONS

ZBA#19-53

QUINLAN SUBDIVISION
20 Center Street
Pearl River, NY
68.19 / 2 / 36 & 38; RG zone

NEW YORK STATE TOWN LAW
280-a EXCEPTION APPROVED

ZBA#19-54

STRUCK
2 Griffith Place
Pearl River, NY
72.08 / 1 / 67; RG zone

NO VARIANCE NEEDED
APPLICANT SHOULD BE REFUNDED FEES
§5.112 Corner lots. On a corner lot, each lot line which
abuts a street shall be deemed to be a front lot line, and
the required yard along both lot frontages shall be a
required front yard. The **owner shall elect** and so designate
on the plot plan which of the remaining two required yards
shall be the required side yard and the required rear yard.

ZBA#19-55

VOLPE
65 Burrows Lane
Blauvelt, NY
70.09 / 2 / 36; R-40 zone

ONE -YEAR EXTENSION OF TIME
TO IMPLEMENT VARIANCES
GRANTED

ZBA#19-56

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Mc INTYRE
9 Lombardi Road
Pearl River, NY
69.05 / 2 / 66; R-15 zone

LOCAL LAW #7 WITHDRAWN
COVANANT ABANDONED
TWO FRONT DOORS REMAIN

ZBA#19-57

OTHER 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 application: Smith-Kriz Addition Site Plan critical environmental area, 76 Old Mountain Road, Upper Grandview, NY, 71.05 / 1 / 26; R-22 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 8:50 P.M.

Dated: June 5, 2019

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By *Deborah Arbolino*

Deborah Arbolino, Administrative Aide

DISTRIBUTION:
APPLICANT
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
TOWN BOARD MEMBERS
BUILDING INSPECTOR (Individual Decisions)
Rockland County Planning

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DECISION

FRONT YARD VARIANCE APPROVED

To: John Ferraro (O'Sullivan)
37 Maple Avenue
New City, New York 10956

ZBA #19-43
Date: May 1, 2019 & June 5, 2019
Permit # 48435

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-43: Application of Cornelius O'Sullivan for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Group I, Section 3.12, Column 8 (Front Yard: 40' required, 37' proposed) for an addition to an existing single-family residence. The property is located at 38 Marycrest Road, West Nyack, New York and are identified on the Orangetown Tax Map as Section 69.06, Block 2, Lot 53; in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 1, 2019 at which time the Board made the determination hereinafter set forth.

John Ferraro, Architect, and Cornelius O'Sullivan appeared and testified.

The following documents were presented:

1. Architectural plans labeled "O'Sullivan Residence 38 Marycrest Road, West Nyack NY" dated 12/17/2018 signed and sealed by John Anthony Ferraro, Architect. (4 pages)
2. A letter dated April 11, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated April 9, 2019 from the Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
4. A letter dated April 16, 2019 from the Rockland County Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
5. A letter dated April 4, 2019 from the Rockland County Drainage Agency signed by Vincent Altieri, Executive Director.
6. A letter dated March 29, 2019 from the Town of Clarkstown Planning Board signed by Gilbert J. Heim, Chairman.

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

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John Ferraro, Architect, testified that there are no additional bedrooms be added; that the proposal is for a clear story addition to house vehicles; that the proposal will not create an undesirable change in the character of the neighborhood; that will not block any views; that the requested variance is not substantial, they are asking for a three foot exception; that the property is a corner property with two front yards; and that the benefit cannot be achieved without the variance; that his addition will not interfere with traffic patterns; that it is not increasing the density; that they are not changing the road opening and the septic system was abandoned by the previous owner and they already hooked up to the sewer, although they did it without a permit; that they wool do a monitored dye test to prove this and got all the proper paper work filed for the sewer; that they have no objection to discussing drainage and submitted the Culteck system; and that there is a second kitchen in the house and they have no problem having the building inspector look at it; and that no one lives downstairs; and they would like to request a continuance until the June 5, 2019 meeting to get all of these things in order.

Cornelius O'Sullivan testified that it is a clear story addition that would allow him to put his trucks inside; that the boat was only on the property for a week and the addition is 22' 6" by 21'.

Public Comment:

Clifford Partridge, 42 Marycrest Road, testified that he has several concerns; that he is one of the original owners in the development and has lived in his for 25 years; that the applicant has many cars and trucks and racing vehicles on the driveway and parked on the road; that he is concerned about drainage with such a large structure and additional driveway space being created because the Naurashaun Brook runs behind their property; that he also fears that the applicant will increase the number of vehicles on the site if the garage is constructed.

Kerry MacNamara, 4 Marycrest Road, testified that she is concerned about drainage; that she is also one of the original owners and out of the 21 houses in the development, 14 of those homes needed to install additional drainage systems; that this house is the first house at the entrance to the development and there are always 6 to 8 cars and trucks parked on the street at that corner; that it is dangerous for the school buses and they have a hard time getting in and out; that this is a safety concern; that the owner was looking for a storage area for his commercial vehicles; that they property has boat trailers, race cars, commercial trucks parked and it makes the corner dangerous for school children; and that she has paid money to ensure a dry basement and is concerned that the additional impervious surfaces shown on the plan may change that.

Patricia Partridge, 42 Marycrest Road, testified that the house already is a four-bedroom house and it is a two-family house because she saw the apartment when she visited during an open house; that she is concerned about the second story of the garage will be used for; and asked the Board to review the drainage.

The following items were submitted at the June 5, 2019 hearing:

1. A memorandum dated May 15, 2019 from Thomas Edattel, Engineer II, Department of Environmental Management and Engineering, Town of Orangetown, stating that a dye test was performed and the property is hooked up to Orangetown Sewer.

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2. Stormwater and Septic Solutions Cultec Recharger 330XLHD , 2 sand alone unit drywell system.
3. Certificate of occupancy dated 7/13/1993 for a two story single family dwelling with one car garage and deck; certificate of occupancy dated 1/7/2000 for a two story addition and deck and Certificate of occupancy dated 9/22/2005 for an in-ground pool.

At the June 5, 2019 hearing John Ferraro, Architect, testified that the O'Sullivan's could not be present because they had a death in the family and were in Ireland; that at the last meeting the Board asked for clarification on several items and he has those items addressed; that first he is submitting a letter showing that the house is hooked up to the Orangetown Sewer; that he has the drywell calculations for the Cultex System; that the location for the system has not been provided but he will submit a plan showing where it will be installed on the site; and he provided he certificate of occupancies for the addition, house and deck; that the Building Inspector did come out to inspect the house and there is a second kitchen that is not being used; that they have agreed to remove the stove and open the door to make that area part of the existing house and the Building Inspector said they could keep the cabinets and sink; and that the additional garage space will get some of the cars out of view for the neighbors.

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: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Bosco were absent.

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 front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant answered satisfactorily the questions that were posed at the first hearing. The additional garage space will allow some of the cars to be out of sight for the neighbors and the drywells shall address any drainage concerns.

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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 applicant answered satisfactorily the questions that were posed at the first hearing. The additional garage space will allow some of the cars to be out of sight for the neighbors and the drywells shall address any drainage concerns.
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 front yard variance, although somewhat substantial, afford 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 applicant answered satisfactorily the questions that were posed at the first hearing. The additional garage space will allow some of the cars to be out of sight for the neighbors and the drywells shall address any drainage concerns.
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.

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(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 is APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco and Mr. Quinn 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: June 5, 2019

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-D.M.

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

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DECISION

FLOOR AREA RATIO VARIANCE APPROVED

To: Joan O'Keefe
60 Meyer Oval
Pearl River, New York 10965

ZBA #19-51
Date: June 5, 2019
Permit #48627

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA # 19-51: Application of Joan O'Keefe for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 3.12, Column 4 (Floor Area Ratio: 30% permitted, 32.2% proposed) for an addition to an existing single-family residence. The premises are located at 60 Meyer Oval, Pearl River, New York and are identified on the Orangetown Tax Map as Section 72.08, Block 2, Lot 22; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 5, 2019 at which time the Board made the determination hereinafter set forth.

William Crawford and Peter Gales appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Proposed New Addition O'Keefe Residence 60 Meyer Oval" dated 9/25/2018 with the latest revision date of 11/05/2018 signed and sealed by Jenny R. Zuniga-Casal Architect.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Castelli 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: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Bosco were absent.

William Crawford testified that they are proposing to remove the existing metal sunroom and construct an all season room that can be used as living space all year; that the proposed room is slightly larger to rear than the existing room and will extend to 13'6" and the sunroom extended 10'; and that the next door neighbor did the same kind of addition.

Public Comment:

No public comment

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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 floor area ratio variance 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 neighborhood.
2. The requested floor area ratio variance 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 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.
4. The requested floor area ratio variance, although somewhat substantial, afford 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. Similar additions have been constructed in 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.

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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 floor area ratio 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.

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The foregoing resolution to approve the application for the requested floor area ratio variance is APPROVED; was presented and moved by Mr. Feroldi, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco and Mr. Quinn 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: June 5, 2019

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

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DECISION

FLOOR AREA RATIO VARIANCE APPROVED

To: William Hayes
624 Western Highway
Blauvelt, New York 10913

ZBA #19-52
Date: June 5, 2019
Permit #48580

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-52: Application of William Hayes Jr. for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 4 (Floor Area Ratio: 20% permitted, 22.48% proposed) for an addition to an existing single-family residence. The premises are located at 624 N. Western Highway, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.09, Block 3, Lot 41.2/40 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 5, 2019 at which time the Board made the determination hereinafter set forth.

William Hayes and Karl Ackermann, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 2/18/2019 with the latest revision date of 4/18/2019 labeled "Proposed New Addition /Alteration for Mr. William Hayes Jr." signed and sealed by Karl Ackermann, Architect.
2. Survey for Hayes dated 10/ 27/ 2015 with the latest revision date of 5/16/2017 signed and sealed by Anthony R. Celentano.
3. A letter dated May 22, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated May 3, 2019 from the Rockland County Highway Department signed by Dyan Rajasingham Engineer III.
5. A letter dated June 3, 2019 from the Rockland County Department of Health signed by Elizabeth Melo, P.E., Senior Public Health Engineer.
6. A letter dated May 9, 2019 from the Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Castelli 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: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Bosco were absent.

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Karl Ackermann, Architect, testified that William Hayes is getting married and he purchased the family home from his parents and they are proposing to make it their own; that they are adding a more modern kitchen and family room and a master bedroom suite and upstairs laundry room; that the proposed addition will match with the beautiful Dutch Colonial style of the house; and it is a small increase in the floor area ratio.

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. 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 floor area ratio variance 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 floor area ratio variance 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 a variance.
4. The requested floor area ratio variance, although somewhat substantial, afford 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.
Similar additions have been constructed in the area.

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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 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.

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The foregoing resolution to approve the application for the requested floor area ratio variance is APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco and Mr. Quinn 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: June 5, 2019

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

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TOWN CLERK'S OFFICE

DECISION

SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED AS AMENDED FROM ZBA #10-64 DATED SEPTEMBER 1, 2010 PERTINENT PREVIOUS CONDITIONS REMAIN WITH CONDITIONS OF AGREEMENT DAED JUNE 4, 2019 BETWEEN MC CORMACK (OWNER) AND ACKERMANN (ABUTTING PROPERTY OWNER)

To: Jay Greenwell (Anda Realty)
85 Lafayette Avenue
Suffern, New York 10901

ZBA #19-53
Date: June 5, 2019
Permit #46031

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-53: Application of Anda Realty for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, CS District, Group FF, Section 3.12, Columns 9 (Side Yard: 0/12' required, 7' approved to the west and constructed at 5' and 5' approved to the east, constructed at 7' to the east) and 10 (Total Side Yard: 0/25' required, 12' existing) for a detached garage which was not constructed to match the plans submitted with ZBA#10-64 dated September 1, 2010. The property is located at 153 East Central Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.16, Block 6, Lot 39; in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 5, 2019 at which time the Board made the determination hereinafter set forth.

Jay Greenwell, Land Surveyor, appeared and testified.

The following documents were presented:

1. Site plan labeled "Amended Final Site Plan Anda Realty LLC" dated October 26, 2018 with the latest revision date of 4/25/2019 signed and sealed by Paul Gdanski P.E., and Jay A. Greenwell, L.S..
2. A memorandum dated April 5, 2019 from Jane Slavin, Director, OBZPAE.
3. A letter dated May 22, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, acting Commissioner of Planning.
4. A letter dated May 15, 2019 from the Rockland County Highway Department signed by Rajasingham, Engineer III.
5. A letter dated May 9, 2019 from the Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
6. An agreement dated June 4, 2019 signed by Aidan McCormack and Karl Ackermann.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Castelli 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: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Bosco and Mr. Quinn were absent.

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Jay Greenwell, Land Surveyor testified that the applicant appeared before the Board and received variances to build the garage; that the construction was completed and the yard variances were reversed; that there should have been a 5 foot side yard on the east side of the property and a 7' side yard on the west side of the property and the yards were reversed; that there was a concrete walk installed without permission also and that will be removed; and Amr. Ackermann and Mr. McCormack have reached an agreement regarding the fence and landscaping and I will e-mail it to the clerk tomorrow.

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. 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 and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The reversal of the side and total side yard variances from the original approval ZBA#10-64 dated September 1, 2010 are acceptable with the addition of all of the conditions that are part of the agreement dated June 4, 2019 between Mr. McCormack (applicant) and Mr. Ackermann (abutting property owner): a copy of which is filed with the OBZPAE building department file for the subject premises.
2. The requested side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The reversal of the side and total side yard variances from the original approval ZBA#10-64 dated September 1, 2010 are acceptable with all of the previous conditions of that approval.
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 and total side yard variances, although somewhat substantial, afford 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 reversal of the side and total side yard variances from the original approval ZBA#10-64 dated September 1, 2010 are acceptable with all of the previous conditions of that approval.

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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 amended side yard and total side yard variances are **APPROVED** with the pertinent conditions from the previous approval and with the additional conditions that are contained in the Agreement dated June 4, 2019 between owner McCormack and abutting property owner Ackermann; 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,

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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 amended side yard and total side yard variances are APPROVED with the pertinent conditions from the previous approval and with the additional conditions that are contained in the Agreement dated June 4, 2019 between owner McCormack and abutting property owner Ackermann;; was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco and Mr. Quinn 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: June 5, 2019

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
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FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

DECISION

NEW YORK STATE TOWN LAW SECTION 280-a EXCEPTION APPROVED

To: Donald Brenner (Quinlan Subdivision)
4 Independence Avenue
Tappan, New York 10983

ZBA #19-54
Date: June 5, 2019
Permit # N.A.

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-54: Application of Quinlan Subdivision for an exception pursuant to New York State Town Law, Section 280-a (Relation of structure to streets or highways) for the creation of a new single-family residential lot. The property is located at 20 Center Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.19, Block 2, Lots 36 & 38; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 5, 2019 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, and Katherine Duane appeared and testified.

The following documents were presented:

1. Plans labeled "Lot line change for Estate of Quinlan" dated November 1, 2018 with the lasted revision date of November 5, 2018.
2. Planning Board Decision #19-15 dated March 13, 2019.
3. A referral from Jane Slavin, Director, OBZPAE dated April 24, 2019.
4. A letter dated May 21, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated May 9, 2019 from the Rockland County Sewer District #1 signed by Joseph La Fiandra, Engineer II.
6. A letter dated June 3, 2019 from the Rockland County Health Department signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
7. An e-mail dated June 5, 2019 from Diane Dunleavy Donnelly objecting to further subdivision.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Castelli 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 since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and, on March 13, 2019 (PB# 19-15 Quinlan Minor Resubdivision) rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declarations" of "Neg Dec."), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows:

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Mr. Feroldi, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Ms. Salomon, aye. Mr. Quinn and Mr. Bosco were absent.

Donald Brenner, Attorney testified that this property is part of an estate from Tom Quinlan; that they are not creating a new lot; that are proposing a lot line change to keep the existing garage on the lot with the house; that the lot #36 will be made smaller in order to accomplish this; that lot #36 is an existing lot in the RG zone; that they are requesting a 280-a exception because the property needs one and they are trying to settle the estate; and that he does not know who will purchase the land but it is zoned RG for single-family houses.

Katherine Duane testified that she is the daughter of Tom Quinlan and he passed away in 2015 and her mom passed away in 2019; that her family has been residents of the town for five generations.

Public Comment:

Ann Cimmelli, 163 West Central, testified that she has questions about the zoning of the lot and if it could be sold separately after this.

Hugo Cimmelli, 163 West Central questioned if multiple family housing could be built on the site if another neighbor that died sold also.

Michael Tricano, 190 West Washington Ave., asked if the lot could be re-subdivided again after this is approved.

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 exception from New York State Law Section 280-a will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. There are other lots in the area that required 280-a exceptions.

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2. The requested exception from New York State Law Section 280-a will 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 exception from New York State Law Section 280-a is not substantial. The granting of the 280-a exception afford 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.
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 exception from New York State Law Section 280-a.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested exception from New York State Town Law Section 280-a 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.

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(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 exception from New York State Town Law Section 280-a is APPROVED; was presented and moved by Mr. Feroldi, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco and Mr. Quinn 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: June 5, 2019

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
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MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

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TOWN CLERK'S OFFICE

DECISION

**EXTENSION OF TIME TO IMPLEMENT SIDE YARD AND TOTAL SIDE YARD
VARIANCES GRANTED IN ZBA# 17-71**

To: Richard Volpe
65 Burrows Lane
Blauvelt, New York 10913

ZBA #19-56
Date: June 5, 2019
Permit #46621

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-56: Application of Richard Volpe for an extension of time to implement the variances granted in ZBA#17-71: from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 3.12, Columns 9 (Side Yard: 30' required, 5' proposed), and 10 (Total Side Yard: 80' required, 25.5' proposed) for a detached two-car garage at an existing single family residence. The premises are located at 65 Burrows Lane, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.09, Block 2, Lot 36; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 5, 2019 at which time the Board made the determination hereinafter set forth.

Richard Volpe appeared and testified.

The following documents were presented:

1. ZBA Decision # 17-71 dated October 4, 2017.
2. Plot plan dated 06/27/2017 signed and sealed by Jane Christine Slavin, Architect.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Castelli 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: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Bosco were absent.

Richard Volpe testified that the garage was not built before the variances lapsed because they had a problem with the removal of a dead tree and they had a problem getting a contractor to do the job; that they were proceeding with the permit and the building inspector realized that the variances were lapsed; and that a one year extension of time would be good.

Public Comment:
No public comment

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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 extension of time to implement the variances granted in ZBA# 17-71 for side yard and total side yard will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. There have not been any substantial changes since the granting of the original variances.
2. The requested extension of time to implement the variances granted in ZBA# 17-71 for side yard and total side yard will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There have not been any substantial changes since the granting of the original variances.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining an extension of time to implement the variances granted in ZBA#17-71.
4. The requested extension of time to implement the variances granted in ZBA# 17-71 for side yard and total side yard, although somewhat substantial, afford 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.
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 extension of time for one year from the date this decision is stamped to implement the side yard and total side yard 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.

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The foregoing resolution to approve the application for the requested extension of time for one year to implement the side yard and total side yard variances is APPROVED; was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco and Mr. Quinn 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: June 5, 2019

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
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TOWN CLERK
HIGHWAY DEPARTMENT
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FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN OF ORANGETOWN
2019 JUN 11 A 11:03
TOWN CLERK'S OFFICE

DECISION

APPLICANT WITHDREW THE LOCAL LAW #7 AND WAS GIVEN PERMISSION TO KEEP THE EXISTING TWO FRONT DOORS

To: Daniel McIntyre
9 Lombardi Road
Pearl River, New York 10965

ZBA #19-57
Date: June 5, 2019
Permit #48764

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-57: Application of Daniel McIntyre for an amendment to ZBA Decision #10-13 to remove the kitchen and surrender the Local Law #7 that was granted with condition on March 3, 2010 and to keep the existing two front doors at the one-family residence. The premises are located at 9 Lombardi Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.05, Block 2, Lot 66 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 5, 2019 at which time the Board made the determination hereinafter set forth.

Daniel McIntyre and Brian Quinn, Attorney, appeared and testified.

The following documents were presented:

1. ZBA Decision #10-13 dated March 3, 2010.
2. Hand drawn plan of the garage conversion of the Local Law #7 258 sq. ft. apartment (3 pages).
3. Two letters from abutting property owners in support of the application.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Castelli 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: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Bosco were absent.

Brian Quinn, Attorney testified that he is present for guidance; that Mr. McIntyre would like to remove the kitchen from the 258 sq. ft. apartment that was constructed for his mother and give up the Local Law #7 but keep the existing two front doors; that the Board made moving the second front door a part of the approval of the apartment after his mother no longer resided in the apartment and his mom passed away and he would like to give up the local law #7 and remove the kitchen but not move the door; that two front doors are permitted if he doesn't have the Local Law #7.

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Daniel McIntyre testified that on one of the front doors faces east and is not seen from the front elevation of the house.

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. 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 removal of the kitchen for the Local Law #7; surrendering the Local Law #7; abandonment of the existing covenant, and keeping the existing two front doors will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Other houses in the neighborhood have two front doors.
2. The requested removal of the kitchen for Local Law #7; surrendering the Local Law #7; abandonment of the existing covenant, and keeping the existing two front doors will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Other houses in the neighborhood have two front doors.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining permission to relinquish the Local Law 7 status; abandonment of the existing covenant and keep the existing two front doors.
4. The requested removal of the kitchen for Local Law #7 and surrendering the Local Law #7, abandonment of the existing covenant, and keeping the existing two front doors is not a substantial request. Other houses in the neighborhood have two front doors.

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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 removal of the kitchen for Local Law #7; surrendering the Local Law #7 variance, abandonment of the existing covenant, and keeping the existing two front doors 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.

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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 removal of the kitchen for Local Law #7; surrendering the Local Law #7 variance; abandonment of the existing covenant and keeping the existing two front doors is APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Bosco and Mr. Quinn 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: June 5, 2019

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

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