

MINUTES  
ZONING BOARD OF APPEALS  
MAY 20, 2015

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

ABSENT: MICHAEL BOSCO

ALSO PRESENT: Dennis Michaels, Esq. Deputy Town Attorney  
Ann Marie Ambrose, Official Stenographer  
Deborah Arbolino, Administrative Aide

This meeting was called to order at 7: 00 P.M. by Mr. 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

NEW ITEM:

HELMKE & ALATSAS 342 Blauvelt Road, Pearl River, NY 69.13 / 2 / 18.2; R-15 zone	FLOOR AREA RATIO, LOT AREA, AND STREET FRONTAGE VARIANCES APPROVED	ZBA#15-38
O'SULLIVAN 34 Hawk Street, Pearl River, NY 69.18 / 1 / 63; R-15 zone	CONTINUED	ZBA#15-39
LITTEE 7 Ferdon Avenue, Sparkill, NY 78.05 / 1 / 12; CS zone	§ 9.34 ONE-TIME EXTENSION OF NON-CONFORMING, FRONT YARD, SIDE YARD, TOTAL SIDE YARD AND § 5.153 ACCESSORY STRUCTURE IN FRONT YARD VARIANCES APPROVED	ZBA#15-40
HYUN 42 Woods Road, Palisades, NY 78.18 / 1 / 38; R-80 zone	§ 6.332: GRAVEL DRIVEWAY VARIANCE APPROVED	ZBA#15-41
DAWSON 3 Knutson Knolls Tappan, NY 77.06 / 1 / 40; R-15 zone	§ 5.153 SHED IN FRONT YARD, § 5.226 FRONT YARD FENCE HEIGHT VARIANCES APPROVED	ZBA#15-42

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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 9:10 P.M.

Dated: May 20, 2015

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By 

Deborah Arbolino, Administrative Aide

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

TOWN CLERKS OFFICE  
2015 JUN 5 AM 11 29  
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DECISION  
**FLOOR AREA RATIO, LOT AREA AND STREET FRONTAGE VARIANCES  
APPROVED**

To: George Alatsas  
17 Bluefields Lane  
Blauvelt, New York 10983

ZBA #15-38  
Date: May 20, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-38: Application of Helmke & Alatsas for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 3.12, Group M, Column 4 (Floor Area Ratio: .20 permitted, .24 proposed), 5 (Lot Area: 15,000 sq. ft. required, 14,357 sq. ft. existing) and 7 (Street Frontage : 75' required, 0' proposed) for a new single-family residence to replace the one being demolished. The premises are located at 342 Blauvelt Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.13, Block 2, Lot 18.2; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 20, 2015 at which time the Board made the determination hereinafter set forth.

George Alatsas, Bill Helmke and Robert Hoene, Architect, and appeared and testified.

The following documents were presented:

1. Copy of site plan dated March 24, 2015. (1 page).
2. Architectural plans dated 03/20/2015 signed and sealed by Robert Hoene, Architect. (4 pages)

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. 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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

George Alatsas testified that the lot was created in the 1920's; that this lot and the one in front of it were owned by the same family; that they purchased the house from the estate; and that the existing house is set about five feet from the west lot line.

Robert Hoene, Architect, testified that the floor area ratio is over a bit because of the front porch and the second floor walk-in closets and bathroom; that the porch adds aesthetically to the house and adds curb appeal; that the existing house that is being demolished is only about 700 sq. ft.; and that they are over on the floor area approximately 500 sq. ft. on the new house.

Bill Helmke testified that the driveway and utility easement is 15' wide and belongs to the rear lot.

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Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

Mr. 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, lot area, and street frontage variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed new house is in keeping with changes made to other houses in the area.
2. The requested floor area ratio, lot area and street frontage variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed new house is in keeping with changes made to other houses in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio, lot area and street frontage 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.
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, lot area and street frontage variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

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The foregoing resolution to approve the application for the requested floor area ratio, lot area and street frontage variances was presented and moved by Mr. Quinn, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was 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: May 20, 2015

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR-M.M.

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

TOWN CLERKS OFFICE  
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DECISION

**ZONING CODE §9.34, FRONT YARD,, SIDE YARD, TOTAL SIDE YARD,  
BUILDING HEIGHT AND ACCESSORY STURCTURE IN FRONT YARD  
VARIANCES APPROVED**

To: Ludovic Littee  
7 Ferdon Avenue  
Sparkill, New York 10976

ZBA #15-40  
Date: May 20, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-40: Application of Ludovic Littee for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, CS District, Section 9.34 (Extension of existing non-conforming use: one time up to, but not exceeding 50% of the floor area ratio) and from Section 3.12, Group FF, Columns 8 (Front Yard: 0' or 45' required, 15.90 existing, 22.15' proposed) 9 ( Side Yard: 0/12' permitted, 16.90' proposed) 10 (Total Side Yard: 0/25' permitted, 33.40' proposed) and 12 (Building Height: 22' 6 3/8" permitted, 26' 1" proposed) and from Section 5.227 (Accessory structure in front yard) for an addition to an existing single-family residence and acknowledgment of an existing shed in the front yard. The premises are located at 7 Ferdon Avenue, Sparkill, New York and are identified on the Orangetown Tax Map as Section 78.05, Block 1, Lot 12; in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 20, 2015 at which time the Board made the determination hereinafter set forth.

Ludovic Littee and Robert Hoene, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 03/05/20153 with the latest revision date of 04/01/2015 (3 pages) signed and sealed by Robert Hoene, Architect..
2. A letter dated April 29, 2015 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated May 20, 2015 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
4. A letter dated May 5, 2015 from the County of Rockland Drainage Agency signed by Vincent Altieri, Executive Director.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. 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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

Robert Hoene, Architect, testified that this is one of the first houses as you turn down Ferdon; that there are several houses in the area and they are all zoned Community Shopping; that being in a commercial zone is what triggered the variances; that the code only allows for a one time less than 50% expansion of a pre-existing non-conforming use; that the house is being increased by 48%; that they have kept the existing front line of the house with the front porch and have stepped the proposed addition back from it;; that they kept the height at the existing 26.1' and continued the existing roof line; that they

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did not want to intrude on the neighbor and that is why they kept the side yard at 16.90 instead of the permitted 0/12 and the total side yard was kept to 33.40 instead of the permitted 0/25'; and that the accessory structure in the front yard is a 8' x 10' shed that Ludovic keeps his motorcycle in; and that he has applied for a permit for it.

Ludovic Littee testified that his neighbor told him that he could not have the shed in the front yard and that he applied for a permit for it but could not add it onto this application and that he appreciates the Board considering now.

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 § 9.34(Expansion of non-conforming use), Front Yard, Side Yard, Total Side Yard, Building Height and § 5.227 (accessory structure in front yard) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The existing house is small and the proposed addition allows the family to comfortably use the property. The small shed in the front yard is not intrusive and is suitable for the storage of a motor bike.
2. The requested § 9.34(Expansion of non-conforming use), Front Yard, Side Yard, Total Side Yard, Building Height and § 5.227 (accessory structure in front yard) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There are several pre-existing non-conforming residential structures in the immediate area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested § 9.34(Expansion of non-conforming use), Front Yard, Side Yard, Total Side Yard, Building Height and § 5.227 (accessory structure in front 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. There are several pre-existing non-conforming residential structures in the immediate 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 § 9.34 (Expansion of non-conforming use), Front Yard, Side Yard, Total Side Yard, Building Height and § 5.227 (accessory structure in front yard) variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

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TOWN'S OFFICE

The foregoing resolution to approve the application for the requested § 9.34 (Expansion of non-conforming use), Front Yard, Side Yard, Total Side Yard, Building Height and § 5.227 (accessory structure in front yard) variances was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was 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: May 20, 2015

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-R.O.A.

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

TOWN OF ORANGETOWN  
2015 JUN 5 AM 11 29  
TOWN CLERKS OFFICE

DECISION  
**ZONING CODE SECTION 6.332 GRAVEL DRIVEWAY VARIANCE  
APPROVED**

To: Mikyong Hyun  
P.O.Box 689  
Palisades, New York 10964

ZBA #15-41  
Date: May 20, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-41: Application of Mikyong Hyun for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-80 District, Section 6.332 ( Driveways shall have at least three (3) inches of binder mix with a top wearing course of one and one-half (1 ½) inches of fine mix asphalt or concrete: gravel is existing and proposed) for an existing driveway at a single-family residence. The premises are located at 42 Woods Road, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.18, Block 1, Lot 38; in the R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 20, 2015 at which time the Board made the determination hereinafter set forth.

Mikyong and Chul Hyun appeared and testified.

The following documents were presented:

1. Copy of site plan dated June 2, 2000. (1 page).

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. 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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Mr. Quinn, aye; and Mr. Sullivan, aye.

Mikyong testified that she purchased the property 16 years ago; that the gravel driveway existed when she purchased the lot; that she built a new house and enlarged the gravel driveway; that it was always shown on the plans as a gravel driveway; that she put money in escrow and wants to get it back and in order to do that, she needs to get a variance for the gravel driveway; that every house in the area has gravel for the driveway because of all of the water problems in the area; that there is only one house that has a step driveway that has a portion of it paved and all of the other driveways in the neighborhood are gravel.

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Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

Mr. 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 § 6.332 gravel driveway variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The vast majority of the houses in the area have gravel driveways because the area is wet and gravel is more pervious.
2. The requested § 6.332 gravel driveway variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The vast majority of the houses in the area have gravel driveways because the area is wet and gravel is more pervious.
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 § 6.332 gravel driveway 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 vast majority of the houses in the area have gravel driveways because the area is wet and gravel is more pervious.
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 § 6.332 gravel driveway 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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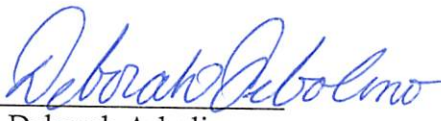
Hyun  
ZBA#15-41  
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The foregoing resolution to approve the application for the requested § 6.332 gravel driveway variance was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was 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: May 20, 2015

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-R.O.A.

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

TOWN CLERKS OFFICE  
2015 JUN 5 AM 11 29  
TOWN OF ORANGETOWN

DECISION  
**ZONING CODE SECTION 5.153 FRONT YARD SHED AND SECTION 5.226  
FRONT YARD FENCE HEIGHT VARIANCES APPROVED**

To: Colm and Kate Dawson  
3 Knutson Knolls  
Tappan, New York 10983

ZBA #15-42

Date: May 20, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-42: Application of Colm and Kate Dawson for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 5.153 ( Shed shall not be erected in front yard: shed is existing and proposed 3 ½' from property line) and from Section 5.226 (Front Yard Fence: 4/12' permitted; 6' existing & proposed) for an existing fence and shed at a single-family residence. The premises are located at 3 Knutson Knolls, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.06, Block 1, Lot 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, May 20, 2015 at which time the Board made the determination hereinafter set forth.

Colm Dawson appeared and testified.

The following documents were presented:

1. Copy of site plan dated December 7, 1964 with the shed and fence drawn on the plan. (1 page).
2. A petition in support of the application signed by three neighbors.
3. Eight 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 Dennis Michaels, 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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

Colm Dawson testified that he installed the fence and the shed four years ago; that he thought they were installed in his side yard and did not realize that he has two front yards because he has a corner lot; that he has two small kids and the bus stop is at the corner of his lot; that the fence was installed for the safety of his own children but all the kids in the neighborhood come into his yard to wait for the bus; that the shed is at least 10' off the road and is an 8' x 10' shed; and that he maintains the property outside the fence along the sidewalk and up to the curb.

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Public Comment:

Carolyn Masseri, 31 Washington Avenue, testified that the Dawson's maintain the property along the sidewalk that their property is very well kept and the fence keeps all of the children safe while they are waiting for the bus.

Bob Cunningham, 12 Knutson Knolls, testified that he has live in his house for 38 years; that the fence is good looking; that he kids all play inside the fence while waiting for the bus; that this an asset to the neighborhood and the Dawson's are an asset to the neighborhood.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

Mr. 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 §5.153 shed in front yard and § 5.226 front yard fence height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Testimony from neighbors in overwhelming support of the application because of the safe area the fenced in yard provides for all the children while waiting for the school bus, makes the fence an asset to the neighborhood.
2. The requested §5.153 shed in front yard and § 5.226 front yard fence height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Testimony from neighbors in overwhelming support of the application because of the safe area the fenced in yard provides for all the children while waiting for the school bus, makes the fence an asset to 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 variances.
4. The requested §5.153 shed in front yard and § 5.226 front yard fence height 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 applicant has two front yards.

The applicant purchased the property subject to Orange town'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 §5.153 shed in front yard and § 5.226 front yard fence height variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted Herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth?
- (iii) The Board gives no approval of any building plans, including, without limitation, The accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.


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The foregoing resolution to approve the application for the requested §5.153 shed in front yard and § 5.226 front yard fence height variances was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was 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: May 20, 2015

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR-M.M.

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

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