

MINUTES
ZONING BOARD OF APPEALS
December 2, 2020

MEMBERS PRESENT: DAN SULLIVAN, CHAIRMAN
PATRICIA CASTELLI
ROB BONOMOLO, JR.
THOMAS QUINN
BILLY VALENTINE

ABSENT: MICHAEL BOSCO

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

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 ITEMS:

REN/GONG
165 Broad Avenue
Palisades, New York
77.20 / 2 / 9; R-15 zone

REAR YARD VARIANCE ZBA#20-82
APPROVED

SUZUKI/PEKOFISKY
425 Orangeburg Road
Pearl River, New York
69.18 / 1 / 3; R-15 zone

FRONT YARD, SIDE ZBA#20-83
YARD AND BUILDING HEIGHT
VARIANCES APPROVED
UNDERSIZED LOT ACKNOWLEDGED

ENG
17 Lombardi Road
Pearl River, New York
69.05 / 2 / 65; R-15 zone

CONTINUED ZBA#20-84

DIXON
71 Lester Drive
Orangeburg, New York
74.18 / 2 / 70; R-15 zone

REAR YARD VARIANCE ZBA#20-85
APPROVED

L & Z PARTNERS
250 Blauvelt Road
Pearl River, New York
69.13 / 2 / 7; R-15 zone

FLOOR AREA RATIO, ZBA#20-86
SIDE YARD, REAR YARD AND
BUILDING HEIGHT VARIANCES
APPROVED
UNDERSIZED LOT ACKNOWLEDGED
With SPECIFIC CONDITION

TOWN CLERK'S OFFICE

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TOWN OF ORANGETOWN

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: St. Aedan Site Plan, 23 Reld Drive, Pearl River, NY, 69.09 / 4 / 5; R-15 zone; Rockland Car Care Site Plan, 552 North Middletown Road, Pearl River, NY, 64.17 / 1 / 76; CO 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 8:30 P.M.

Dated: December 2, 2020

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 OF ORANGETOWN
2020 DEC - 8 A 12:13
TOWN CLERK'S OFFICE

DECISION

REAR YARD VARIANCE APPROVED

To: Guangyi Ren
1246 Shore Drive
Bronx, New York 10465

ZBA #20-82
Date: December 2, 2020
Permit #50740

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-82: Application of Guangyi Ren for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Column 11 (Rear Yard: 35' required, 23.4' existing) for an existing deck at an existing single-family residence. The property is located at 165 Broad Avenue, Palisades, New York and are identified on the Orangetown Tax Map as Section 77.20, Block 2, Lot 9 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 2, 2020 at which time the Board made the determination hereinafter set forth.

Yumin Gong appeared and testified.

The following documents were presented:

1. A copy of the survey with the deck drawn on it by Yumin Gong dated 10/8/2020. (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 Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Valentine, aye. Michael Bosco was absent.

Yumin Gong testified that the deck was there when they purchase the house and they rebuilt it while living in the house; that the house has been sold and it came up as being an illegal deck on the title search; that they are trying to legalize it for the new owners; and that she respectively requests that the deck remain as is and that they be issued the variance; and that this has cost her and her husband a lot of money; that the title insurance 20 years ago when they purchased the house never said anything about the deck being illegal.

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Public Comment:

Rita Strump, 165 Broad Avenue, testified that they purchased the house from the applicant and that they are present to ensure that the deck is legalized at no cost to them; and that the violation is cleared up.

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 Mr. Bonomolo 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 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar decks have been constructed in the neighborhood and this deck has existed without incident for at least 20 years.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar decks have been constructed in the neighborhood and this deck has existed without incident for at least 20 years.
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 rear yard variance although somewhat substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar decks have been constructed in the neighborhood and this deck has existed without incident for at least 20 years.

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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 variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested rear 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.

(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 rear yard variance is APPROVED; was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye. Mr. Quinn, aye; and Mr. Valentine; 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: December 2, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2020 DEC -8 A 12:13
TOWN CLERK'S OFFICE

DECISION

**FRONT YARD, SIDE YARD, AND BUILDING HEIGHT VARIANCES APPROVED;
UNDERSIZED LOT & 9.6' SIDE YARD FOR EXISTING GARAGE/GREENHOUSE
STRUCTURE ACKNOWLEDGED**

To: Sara Pekofsky
425 Orangeburg Road
Pearl River, New York 10965

ZBA #20-83
Date: December 2, 2020
Permit #47900

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 20-83: Application of Suzuki & Pekofsky for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M. Columns 8 (Front Yard: 30' required, 20' existing, 27.9' proposed) 9 (Side Yard: 15' required, 13.5' existing, 15.5' proposed) and 12 (Building Height: 20' permitted, 25' proposed) Section 5.21 e (Undersized lot applies) & (9.6' side yard for existing garage/greenhouse structure) for an addition to an existing single-family residence. The property is located at 425 Orangeburg Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.18, Block 1, Lot 3 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 2, 2020 at which time the Board made the determination hereinafter set forth.

Sara Pekofsky and her Dad, Steven Pekofsky appeared and testified.

The following documents were presented:

1. Plans labeled "Residential Addition & Renovations for Maou Suzuki & Sara Pekofsky" dated October 7, 2020 and last revised October 23, 2020 signed and sealed by John J. Gilchrist, Architect. (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 Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Valentine, aye. Mr. Bosco was absent.

Sara Pekofsky testified that they are proposing to add a second story onto the existing house and it will be stepped back from the existing front yard set back in order to keep the existing front porch; that the side yard and front yard are pre-existing non-conforming conditions and they are not increasing them; that the house is small and they need more bedrooms; that this the least expensive way of adding onto the house; that they have owned the house for seven years; that they have two children; and they love the neighborhood and do not want to move.

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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 Mr. Bonomolo 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, side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the undersized lot and noted that similar additions have been constructed in the neighborhood. The Board also acknowledged the existing garage/ green house has a 9.6' side yard setback.
2. The requested front yard, side yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged the undersized lot and noted that similar additions have been constructed in the neighborhood. The Board also acknowledged the existing garage/ green house has a 9.6' side yard setback.
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, side yard and building height variances although somewhat substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The Board acknowledged the undersized lot and noted that similar additions have been constructed in the neighborhood. The Board also acknowledged the existing garage/ green house has a 9.6' side yard setback.

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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 variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested front yard, side yard and building height variances are **APPROVED** and the Undersized lot & existing 9.6' side yard setback for the existing garage/greenhouse structure are acknowledged; 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 front yard, side yard and building height variances are APPROVED and the undersized lot & 9.6' side yard setback for the existing garage/greenhouse structure are acknowledged; was presented and moved by Mr. Valentine, seconded by Mr. Quinn and carried as follows: Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; Mr. Quinn; aye and Mr. Valentine, 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: December 2, 2020

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 CLERK'S OFFICE
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DECISION

REAR YARD VARIANCE APPROVED

To: Matthew and Kimberly Dixon
71 Lester Drive
Tappan, New York 10983

ZBA #20-85
Date: December 2, 2020
Permit #50781

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-85: Application of Matthew and Kimberly Dixon for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 11 (Rear Yard: 35' required, 16' proposed) for an existing deck at an existing single-family residence. The property is located at 71 Lester Drive, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 74.18, Block 2, Lot 70 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 2, 2020 at which time the Board made the determination hereinafter set forth.

Matthew and Kimberly Dixon appeared and testified.

The following documents were presented:

1. Survey with the deck drawn on it.
2. Deck plans hand drawn.
3. Five letters from abutting property owners in support of the variance.

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: Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Valentine, aye. Mr. Bosco was absent.

Kimberly Dixon testified that they are before the Board to legalize an existing deck; that they love the Orangetown community; that they moved here twelve years ago from New Jersey when they purchased the house at 71 Lester Drive; that they used a New Jersey Attorney at the time and they had no problems purchasing the house with the existing deck; that they had a title search at the time and they were given clear title and a mortgage; that they have purchased a new house in Orangetown and are selling this house and that is when they found out that the existing deck is illegal and doesn't have a certificate of occupancy and that it needs a variance; that is why they are before the Board; that they did replace the wood with Trex several years ago; that they need to clear this up in order to sell the house and they cannot afford to keep two houses for very long and would really appreciate it if the Board granted the variance for the deck that has existed for years without complaint.

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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 Mr. Bonomolo 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 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar decks have been constructed in the neighborhood. The applicant has five letters in support of the granting of the variance and one of the letters is from the neighbor in the rear that would be most affected by the granting of the variance.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar decks 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 rear yard variance is not substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar decks 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 variance.

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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 rear 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.

(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 rear yard variance is APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Castelli and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, 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: December 2, 2020

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

TOWN CLERK'S OFFICE
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DECISION

**FLOOR AREA RATIO, SIDE YARD, REAR YARD AND BUILDING HEIGHT
VARIANCES APPROVED; UNDERSIZED LOT ACKNOWLEDGED with SPECIFIC
CONDITION**

To: Jonathan Blisko
176 N. Main Street
Spring Valley, New York 10977

ZBA #20-86
Date: December 2, 2020
Permit #50689

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-86: Application of L & Z Partners LLC for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: 20% permitted, 24% proposed), 9 (Side Yard: 15' required, 13.1' proposed), 11 (Rear Yard: 35' required, 28.3' proposed) and 12 (Building Height: 20' permitted, 23' proposed) (Section 5.21 c & e: Undersized lot applies) for an addition to an existing single-family residence. The property is located at 250 Blauvelt Road, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.13, Block 2, Lot 7 in the R-15 zoning district.
Date: November 17, 2020

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 2, 2020 at which time the Board made the determination hereinafter set forth.

Yakkov Jonathan Blisko appeared and testified.

The following documents were presented:

1. Plans labeled "Partial Second Floor Addition to Single Family Residence" dated September 8, 2020 with the latest revision date of October 28, 2020 not signed or sealed by Mayerfeld Architecture. (4 pages).
2. Survey dated May 7, 2020 signed and sealed by Edward T. Gannon, PLS.

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: Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Valentine, aye. Mr. Bosco was absent.

Mr. Blisko testified that the house was purchased from an estate; that the owner passed away and it was owned by an estate since 1970; that they bought the house in the hopes of raising the roof on the Cape style house to make a full second floor and to add a master bedroom suite over the existing garage; that the lot is undersized but there are many houses in the area that have made similar improvements; that if they had to reduce the floor area ratio they could go back to the

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architect and ask to reduce the size for the master bedroom suite; that the house is presently a four bedroom house and when it is complete it will remain a four bedroom house that is more suitable for today's lifestyle; and that he would agree to either a wood fence or an arborvitae screening but would ask if the neighbor would split the cost; and he agreed with the Chairman that he is the one requesting a variance and that he would agree to the condition of either a six (6') wooden fence or a natural screening of six (6') feet tall arborvitae on the center third of the east side of the property running from the front to the back of the house on 250 Blauvelt Road; and that the house was purchased as an investment.

Daniel Sullivan, Chairman, explained to the applicant that the Board sometimes adds conditions to the granting of a variance to satisfy concerns within the neighborhood.

Tom Quinn asked the applicant if this was an investment property.

Public Comment:

Gerard Maye, 262 Blauvelt Road, abutting neighbor to the east, testified that they are little concerned about the size of the structure on an undersized lot, however they are not against the application; that they would like a buffer between the properties; and they suggested either a six (6') foot high wooden fence or a row of six 6' foot high arborvitae to allow them privacy; that the fence or plantings should start at the front of the house to back of the house along the east property line to ensure them some privacy.

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 Mr. Quinn 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, side yard, rear yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the undersized lot and noted that similar additions have been constructed in the neighborhood. The applicant agreed to install a privacy barrier from the front corner to the rear corner of the house at 250 Blauvelt Road, which shall consist of either a six (6') foot high wooden fence or a row of six (6') foot high arborvitae along the east side of the property line shared with 262 Blauvelt Road.

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2. The requested floor area ratio, side yard, rear yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged the undersized lot and noted that 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 variances.
4. The requested floor area ratio, side yard, rear yard and building height variances although somewhat substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The Board acknowledged the undersized lot and noted that 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 variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested floor area ratio, side yard, rear yard and building height variances are **APPROVED** with the following **SPECIFIC CONDITION:** (1) The applicant agreed to install a privacy barrier from the front corner to the rear corner of the house at 250 Blauvelt Road, which shall consist of either a six (6') foot high wooden fence or a row of six (6') foot high arborvitae along the east side of the property line shared with 262 Blauvelt Road; 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 floor area ratio, side yard, rear yard and building height variances are APPROVED with the following SPECIFIC CONDITION: (1) The applicant agreed to install a privacy barrier from the front corner to the rear corner of the house at 250 Blauvelt Road, which shall consist of either a six (6') foot high wooden fence or a row of six (6') foot high arborvitae along the east side of the property line shared with 262 Blauvelt Road; and the undersized lot is acknowledged; was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; and Ms. Castelli, aye; and Mr. Valentine, 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: December 2, 2020

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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