

MINUTES
ZONING BOARD OF APPEALS
February 17, 2021

MEMBERS PRESENT: PATRICIA CASTELLI, ACTING CHAIRPERSON
MICHAEL BOSCO
ROB BONOMOLO, JR.
BILLY VALENTINE

ABSENT: DAN SULLIVAN, CHAIRMAN
THOMAS QUINN

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

This meeting was called to order at 7: 00 P.M. by Ms. Castelli, Acting Chairperson. 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:

SUBARU DISTRIBUTION
CENTER SIGNS
6 Ramland Road
Orangeburg, New York
73.20 / 1 / 23 & 25; LIO zone

SIGN VARIANCE
APPROVED

ZBA#21-17

MC GARVEY
41 Douglas Court
Pearl River, New York
69.09 / 5 / 43; R-15 zone

FLOOR AREA RATIO,
FRONT YARD, AND ACCESSORY
STRUCTURE LOCATION VARIANCES
APPROVED

ZBA#21-18

LEOTE
50 Graney Court
Pearl River, New York
68.07 / 3 / 40; R-15 zone

SIDE YARD VARIANCE
APPROVED

ZBA#21-19

LANE
176 Erie Street
Blauvelt, New York
70.13 / 1 / 17.1; R-15 zone

REAR YARD VARIANCE
APPROVED

ZBA#21-20

GLEESON
58 Hunt Avenue
Pearl River, New York
68.16 / 5 / 1; RG zone

FRONT YARD VARIANCE
APPROVED

ZBA#21-21

TOWN CLERK'S OFFICE
2021 FEB 19 A 9:10
TOWN OF ORANGETOWN

THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

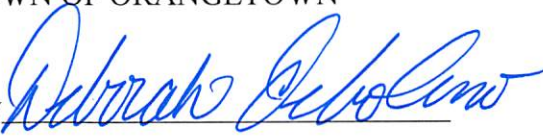
The verbatim minutes, as recorded by the Board's official stenographer for the above hearings, are not transcribed.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:00 P.M.

Dated: February 17, 2021

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
2021 FEB 19 A 9:10
TOWN CLERK'S OFFICE

DECISION

SIGN SIZE VARIANCE APPROVED

To: Rick Bohlander (Subaru Signs)
120 Bedford Road
Armonk, New York 10504

ZBA #21-17
Date: February 17, 2021
Permit #50962

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-17: Application of Subaru Distribution Center for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, , Section 3.11, LIO District Column 5 refers to LO District, Column 5, Paragraph 11 (30 sq. ft. permitted, 91.04 sq. ft. proposed for (1) One existing entrance sign that is being re-faced and (2) two wall signs) at an existing distribution center. The property is located at 6 Ramland Road, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 73.20, Block 1, Lot 23 & 25 in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 17, 2021 at which time the Board made the determination hereinafter set forth.

Dain Landon, Attorney, Diego Villareale and Rick Bohlander Engineers JMC, appeared and testified.

The following documents were presented:

1. Site Layout Plan (Phase 2) page #SP-4 dated 01/15.2019 with the latest revision date of 01/19/2021.
2. Plans from Philadelphia Sign dated 06/22/20 with the latest revision date of 07/08/2020 signed and sealed by Frederick Bohlander P.E. (6 pages).

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli moved for a Board determination that the foregoing application seeks area or bulk variances for construction or expansion of a primary, or accessory or appurtenant non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls the application exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9); which does not require SEQRA environmental review. The motion was seconded by Mr. Valentine and carried as follows: Mr. Bosco, aye; Mr. Valentine, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Sullivan were absent.

Diego Villareale, P.E. testified that this project was before the Zoning Board when they expanded; that the expansion is complete and the building has a new facade; that they are requesting a variance for signage in order to reface the existing monument sign that is 34 square feet and to add two new building signs on the renovated expanded building; that the Subaru

TOWN OF ORANGETOWN
2021 FEB 19 A 9:10
TOWN CLERK'S OFFICE

lettering sign would be 20 square feet; and the logo sign would be 40 square feet; that the building is set back 100 feet from Ramland Road and there is a sixty foot driveway and fifty feet of landscape area between the building and roadway; that the building is 28 feet high and the logo sign will be at the that height; and that within the context of the building the signs are not large.

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.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Mr. Bosco 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 sign size variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The signs on the building are proportionate to the size of the building, which is set back from the road approximately 100' feet with fifty feet of landscaping and the existing monument sign is being refaced.
2. The requested sign size variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The signs on the building are proportionate to the size of the building, which is set back from the road approximately 100' feet with fifty feet of landscaping and the existing monument sign is being refaced.
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 sign size variance although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The signs on the building are proportionate to the size of the building, which is set back from the road approximately 100' feet with fifty feet of landscaping and the existing monument sign is being refaced.

TOWN OF ORANGETOWN
 2021 FEB 19 4 10
 TOWN CLERK'S OFFICE

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 sign size 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.

TOWN CLERK'S OFFICE
2021 FEB 19 AM 9:18
TOWN OF ORANGETOWN

Subaru Distribution Center Signs
ZBA#21-17
Page 4 of 4


Permit #50962

The foregoing resolution to approve the application for the requested sign size variance is APPROVED; was presented and moved by Mr. Bosco, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Valentine, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Sullivan 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: February 17, 2021

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 OF ORANGETOWN
2021 FEB 19 A 9 10
TOWN CLERK'S OFFICE

DECISION

**FLOOR AREA RATIO, FRONT YARD AND ACCESSORY STRUCTURE SETBACK
VARIANCES APPROVED**

To: Michael McGarvey
41 Douglas Court
Pearl River, New York

ZBA #21-18
Date: February 17, 2021
Permit #50909

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-18: Application of Michael McGarvey for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .29 existing), 8 (Front Yard: 30' required, 24' existing to porch and 21' to steps) and from Section 5,227 (Accessory Structure setback: 5' required, 1' existing) for a front porch and shed at an existing single-family residence. The property is located at 41 Douglas Court, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.09, Block 5, Lot 43 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 17, 2021 at which time the Board made the determination hereinafter set forth.

Michael Mc Garvey appeared and testified.

The following documents were presented:

1. Site Plan showing the front porch, deck and accessory structure; original survey showing the addition from 2000.
2. Architectural plans for the front porch, shed and rear deck dated 11/18./ 2020 signed and sealed by Frederick McCullough, P.E. (3pages)
3. ZBA Decision #00-28 dated April 5, 2000.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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 Mr. Bonomolo and carried as follows: Mr. Bosco, aye; Mr. Valentine, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Sullivan were absent.

Michael McGarvey testified that his shed is too close to his neighbor; that there is a stone wall and fence in that area; that the side overhang that he added makes the side yard tight and his front steps were decaying and when he was fixing them he added a front porch which causes another variance; that the old steps came out about 3 or 4 feet and new steps come out about 8 or 9 feet ; that the front porch adds 60 sq. ft. to the floor area ratio; that he is trying to legalize everything tonight; that the shed has been there since 2006 and that he thinks he did the steps and porch in 2013 but his wife says it was done in 2015 and other houses in the neighborhood have front porches.

TOWN CLERK'S OFFICE
2021 FEB 19 A 9 10
TOWN OF ORANGETOWN

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.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Mr. Bosco 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, front yard and accessory structure location variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar front porch additions have been constructed in the neighborhood. The shed in the rear yard does not intrude on anyone and has existed for some time without incident.
2. The requested floor area ratio, front yard and accessory structure location variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . Similar front porch additions have been constructed in the neighborhood. The shed in the rear yard does not intrude on anyone and has existed for some time without incident.
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, front yard and accessory structure location 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. . Similar front porch additions have been constructed in the neighborhood. The shed in the rear yard does not intrude on anyone and has existed for some time without incident.

TOWN CLERK'S OFFICE

2021 FEB 19 A 9:10

TOWN OF ORANGETOWN

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, front yard and accessory structure location 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.


TOWN CLERK'S OFFICE
2021 FEB 19 A 9:10
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested floor area ratio, front yard and accessory structure location variances are APPROVED; was presented and moved by Mr. Bonomolo, seconded by Mr. Bosco and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; Mr. Bosco, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Sullivan 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: February 17, 2021

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 OF ORANGETOWN
2021 FEB 19 A 9 10
TOWN CLERK'S OFFICE

DECISION

SIDE YARD VARIANCE APPROVED

To: Jean Leote
50 Grady Court
Pearl River, New York 10965

ZBA #21-19
Date: February 17, 2021
Permit #51014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 21-19: Application of Jean Leote for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 3.12, Group M, Column 9 (Side Yard: 20' required, 19.6' existing) for an existing deck at an existing single-family residence. The property is located at 50 Graney Court, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.07, Block 3, 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, February 17, 2021 at which time the Board made the determination hereinafter set forth.

Jean Leote appeared and testified.

The following documents were presented:

1. Plans labeled "The Leote Residence" dated December 30, 2020 signed and sealed by Barbara Hess, Architect. (1 page).

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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 Mr. Bonomolo and carried as follows: Mr. Bosco, aye; Mr. Valentine, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Sullivan were absent.

Jean Leote testified that she is before the Board to legalize and existing deck; that the deck was built in 2002 and is about 5 inches too close to the neighbors' property; that her ex-husband built the deck and she did not know that he built it without a permit until she was selling the house.

The Board noted that the variance requested is for 19.6 to the deck and added that the house has a 19.4 side yard.

Public Comment:

No public comment.

TOWN CLERK'S OFFICE
2021 FEB 19 A 9:10
TOWN OF ORANGETOWN

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.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Mr. Valentine 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 (19.6' to deck and 19.4' to the house) 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.
2. The requested side yard (19.6' to deck and 19.4' to the house) 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 side yard variance (19.6' to deck and 19.4' to the house) 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.

TOWN OF ORANGETOWN
2021 FEB 19 A 9 10
TOWN CLERK'S OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested side yard (19.6 to the deck, 19.4 to the house) 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.

TOWN CLERK'S OFFICE

2021 FEB 19 A 9:09


TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard variance (19.6 to the deck, 19.4 to the house) is APPROVED; was presented and moved by Mr. Valentine, seconded by Mr. Bosco and carried as follows: Mr. Bonomolo, aye; Mr. Valentine, aye; Mr. Bosco, aye; and Ms. Castelli, aye. Mr. Quinn, and Mr. Sullivan 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: February 17, 2021

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-Dom. M.

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

TOWN CLERK'S OFFICE
2021 FEB 19 A 9:09
TOWN OF ORANGETOWN

DECISION

REAR YARD VARIANCE APPROVED

To: Timothy Lane
176 Erie Street
Blauvelt, New York 10913

ZBA #21-20
Date: February 17, 2021
Permit #50838

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-20: Application of Timothy Lane 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, 26.3' existing) to an existing deck and above ground pool at an existing single-family residence. The property is located at 176 Erie Street, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 70.13, Block 1, Lot 17.1 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 17, 2021 at which time the Board made the determination hereinafter set forth.

Timothy Lane appeared and testified.

The following documents were presented:

1. Plans labeled "Lane Residence 176 East Erie Street " dated November 9, 2020 signed and sealed by John Anthony Ferraro, Architect.(4 pages)
2. Survey dated February 12,2001 by Joseph Haller, P.L.S.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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 Mr. Bonomolo and carried as follows: Mr. Bosco, aye; Mr. Valentine, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Sullivan were absent.

Timothy Lane testified that his house has been sold and he is before the Board to legalize an above ground pool and deck that was constructed eight or ten years ago; that he lived in this house for twenty five years; that the neighbors house is set back further than his pool and deck; that the property is oddly shaped and even if the pool had been placed further back it would have required a variance; and that the pool and deck have existed for a long time without incident or complaint.

Public Comment:

No public comment.

TOWN CLERK'S OFFICE
2021 FEB 19 A 9:09
TOWN OF ORANGETOWN

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.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Mr. Bosco 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. Other houses in the area have above-ground pools and decks and this is an odd shaped lot.
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. Other houses in the area have above-ground pools and decks and this is an odd shaped lot.
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. Other houses in the area have above-ground pools and decks and this is an odd shaped lot.
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.

TOWN OF ORANGETOWN
2021 FEB 19 A 9:09
TOWN CLERK'S OFFICE

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.

TOWN CLERK'S OFFICE
2021 FEB 19 A 9:09
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested rear yard variance is APPROVED; was presented and moved by Mr. Bonomolo, seconded by Ms. Castelli and carried as follows: Mr. Valentine, aye; Mr. Bosco, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye; Mr. Quinn and Mr. Sullivan 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: February 17, 2021

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-Dom M.

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

TOWN OF ORANGETOWN
2021 FEB 19 A 9:09
TOWN CLERK'S OFFICE

DECISION

FRONT YARD VARIANCE APPROVED

To: Karl Ackermann (Gleeson)
159 E. Central Avenue
Pearl River, New York 10965

ZBA #21-21
Date: February 17, 2021
Permit #50977

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-21: Application of Brian and Carrie Gleeson for a variance from Zoning Code (Chapter 43) of the Orangetown Code, RG District, Group Q, Column 8 (Front Yard: 25' required, 23' 10" proposed) for an addition of a front and side porch at an existing two-family residence. The premises are located at 58 Hunt Avenue, Pearl River, New York and is identified on the Orangetown Tax Map as Section 68.16, Block 5, Lot 1 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 17, 2021 at which time the Board made the determination hereinafter set forth.

Karl Ackermann, Architect, Brian and Carrie Gleeson appeared and testified.

The following documents were presented:

1. Plans labeled "Proposed Front Porch for Mr. & Mrs. Gleeson" dated June 19, 2019 with the latest revision date of January 4, 2021 signed and sealed by Karl Ackermann, Architect. (5 pages).

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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 Mr. Bonomolo and carried as follows: Mr. Bosco, aye; Mr. Valentine, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Sullivan were absent.

Karl Ackermann, Architect, testified that the Gleeson residence has two front yards and they have lived in Pearl River for 15 years; that the front entry faces north and needed to have a cover; that the Roosevelt side of the house will remain untouched; that the addition of the porch will add character to the house and many other houses on Hunt Avenue have front porches; and that the proposed addition will add to the beautification of the neighborhood.

Public Comment:

No public comment.

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2021 FEB 19 A 9:09
TOWN OF ORANGETOWN

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.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Mr. Bosco 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. Many houses in the area have added front porches.
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. Similar additions have been constructed in the neighborhood. Many houses in the area have added front porches.
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 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 additions have been constructed in the neighborhood. Many houses in the area have added front porches.
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.

TOWN OF ORANGETOWN
2021 FEB 19 A 9:09
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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 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.

(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.

TOWN OF ORANGETOWN
2021 FEB 19 A 9:09
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested side yard variance is APPROVED; was presented and moved by Ms. Castelli seconded by Mr. Valentine and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Valentine, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Sullivan 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: February 17, 2021

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
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