

MINUTES
ZONING BOARD OF APPEALS
July 1, 2020

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

ABSENT: MICHAEL BOSCO

ALSO PRESENT: Deborah Arbolino, Administrative Aide
Denise Sullivan, Deputy Town Attorney

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

HOMES FOR HEROES
335 Western Highway
Tappan, NY
74.18 / 3 / 48; R-15 zone

SECTION 3.12, GROUP N,
COLUMN 5 NOTE #18
APPROVED

ZBA#20-27

REEVES
112 Bogert Avenue
Pearl River NY
68.16 / 3 / 21; RG zone

SIDE YARD VARIANCE
APPROVED

ZBA#20-40

ORGANIC RECYCLING
PERFORMANCE STANDARDS
121 Route 303
Tappan, NY
74.19 / 1 / 3 : LI zone

PERFORMANCE STANDARDS
APPROVED FOR TEN YEARS

ZBA#20-41

DUGANDZIC
45 Oldert Drive
Pearl River, NY
69.18 / 2 / 63; R-15 zone

FLOOR AREA RATIO, SIDE
YARD AND TOTAL SIDE
YARD VARIANCES APPROVED

ZBA#20-42

FITZPATRICK
65 Moison Road
Blauvelt, NY
70.10 / 2 / 19; R-15 zone

SIDE YARD AND TOTAL
SIDE YARD VARIANCES
APPROVED

ZBA#20-43

TOWN OF ORANGETOWN
2020 JUL -8 P 2:13
TOWN CLERK'S OFFICE

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: July 1, 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 JUL - 8 - 8 P 2:13
TOWN CLERK'S OFFICE

DECISION

§ 3.12, GROUP N, COLUMN 5, NOTE #18 VARIANCES APPROVED

To: Ken DeGennaro (Homes for Heroes)
Brooker Engineering
74 Lafayette Ave. Suite 501
Suffern, New York 10901

ZBA #20-27
Date: July 1, 2020
Permit #49045

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-27: Application of Rockland Homes for Heroes variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 3.12, Group N, Column 5, see Note #18 (Not more than five (5) units per acre for adult housing on a minimum parcel size of five (5) acres and a maximum parcel of seven (7) acres not separated by a road and/or right-of-way. 8.16 acres exist) for veteran housing. The premises are located at 335 Western Highway Tappan, New York and are identified on the Orangetown Tax Map as Section 74.18, Block 3, Lot 48 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 1, 2020 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Ken DeGennaro, Engineer, and John Murphy appeared and testified.

The following documents were presented:

1. Plans labeled "Camp Shanks-RHFH Phase II" dated October 1, 2019 with the latest revision date of 01/23/2020 signed and sealed by Kenneth H. DeGennaro, P.E., (7 pages).
2. A letter dated February 26, 2020 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated March 13, 2020 from the Rockland County Sewer District No. 1 signed by Joseph LaFinadra, Engineer II.
4. A letter dated March 16, 2020 from the Rockland County Center for Environmental Health signed by Elizabeth Mello. P.E., Senior Public Health Engineer.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that Since the Planning Board noticed its intent to declare itself Lead agency and distributed that notice of intention to all involved agencies, including the Zoning Board of Appeals who consented or did not object to the Planning Board acting as Lead Agency, pursuant to coordinated review under the State Environmental Quality Review Act Regulation § 617.6 (b) (3); and since the Planning Board conducted SEQRA reviews and on October 7, 2019 (as set forth in PB #19-68), rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use action (i.e. a "Negative Declaration" or "Neg Dec"), the Zoning Board of Appeals is bound by the Planning Board's Neg Dec and the Zoning Board of Appeals cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b) (3) ; which motion was seconded by Ms. Castelli and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye.

TOWN OF ORANGETOWN
2020 JUL -8 P 2:13
TOWN CLERK'S OFFICE

Donald Brenner, Attorney, testified that the property was part of an old Army Base that included the old military base and Nike Base; that this portion of the land was given to the reserves and used by them for some time and when they longer needed it, the property was considered surplus by the Federal Government; that it could be used for housing for the homeless and turned it over to John Murphy to explain more history; and went over the benefits of this application by addressing the five factors for granting an area variance.

John Murphy testified that he won the bid for the property and loan grants for developing the property for homeless veterans; that presently there are eight one-bedroom apartments and they are proposing 14 more apartments, some of them will be two-bedrooms units; that the veterans are eligible for housing if they were honorably discharged from service and if they are homeless; and that they are preserving the military history of the property.

Ken DeGennaro, Engineer, stated that the darker hashed area is where the new driveway will be added; that they are re-utilizing the barracks that exist; that they will be reusing the foundation and walls and repurposing them; that the reason they are before the Board is because they are allowed five units per acre up to seven acres and they have 8.16 acres; that they are building less than what is permitted; and that they will comply with the letters from the agencies and they are having the fire alarms laid out by professionals at the request of the Tappan Fire Department.

Tom Quinn asked about improving the fire alarm system as requested by the Tappan Fire Department.

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 Section 3.12, Group N, Column 5, note 18 variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the pre-existing non-conforming front yard and noted that the property had be abandoned and not used for many years and the proposal is repurposing an existing building and serving a portion of the population that should be cared for. The proposal is for less units than would be permitted.

TOWN CLERK'S OFFICE

2020 JUL - 8 P 2:13

TOWN OF ORANGETOWN

2. The applicant has agreed to comply with all of the requests from Rockland County Planning dated February 26, 2020; Rockland County Sewer District No. 1 dated March 13, 2020 and Rockland County Health dated March 16, 2020 and the Tappan Fire Department's request for Fire Alarm detectors.
3. The requested Section 3.12, Group N, Column 5, note 18 variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged the pre-existing non-conforming front yard and noted that the property had be abandoned and not used for many years and the proposal is repurposing an existing building and serving a portion of the population that should be cared for. The proposal is for less units than would be permitted.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested Section 3.12, Group N, Column 5, note 18 variances are not substantial. The Board acknowledged the pre-existing non-conforming front yard and noted that the property had be abandoned and not used for many years and the proposal is repurposing an existing building and serving a portion of the population that should be cared for. The proposal is for less units than would be permitted.
6. 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 Section 3.12, Group N, Column 5, note 18 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.

TOWN OF ORANGETOWN
2020 JUL -8 P 2:13
TOWN CLERK'S OFFICE

(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
2020 JUL - 8 P 2:13
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested Section 3.12, Group N, Column 5, note 18 variances are APPROVED and the pre-existing non-conforming front yard 28.1' is acknowledged; was presented and moved by Ms. Castelli, seconded by Mr. Bonomolo and carried as follows: Mr. Valentine, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: July 1, 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 OF ORANGETOWN
2020 JUL -8 P 2:13
TOWN CLERK'S OFFICE

DECISION

SIDE YARD VARIANCE APPROVED

To: Elizabeth Reeves
112 Bogert Avenue
Pearl River, New York 10965

ZBA #20-40
Date: July 1, 2020
Permit # 49956

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-40: Application of Elizabeth Reeves for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, RG District, Group Q, Section 3.12, Column 9 (Side Yard: 10' required, 8' existing to a screened in porch) at an existing single-family residence. The premises are located at 112 Bogert Avenue, Pearl River, New York and is identified on the Orangetown Tax Map as Section 68.16, Block 3, Lot 21 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 1, 2020 at which time the Board made the determination hereinafter set forth.

Karl Ackermann, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "Proposed Prior constructed Screened Porch C/O Application Mr. & Mrs. Reeves Residence" dated April 11, 2020 signed and sealed by Karl E. Ackermann, Architect. (1 page).
2. Survey not stamped or sealed.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Mr. Bonomolo 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. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Valentine, aye; and Ms. Castelli, aye.

Karl Ackermann, Architect, testified that his clients are selling the house and when the title search was done, it was discovered that the existing screened in porch was added by the previous owner without a permit; that the porch does not extend any further into the required yard than the existing kitchen but it does require a variance; that there is a fence on that side of the property; that it is a solid white vinyl fence; that this was not self-created because his clients purchased the house this was existing and it was not discovered because the town was not doing on-site inspections during title searches at that time.

TOWN CLERK'S OFFICE
2020 JUL - 8 P 2:13
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.

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 side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The screened in porch does not extend any further than the existing kitchen and similar additions have been constructed in the neighborhood.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The screened in porch does not extend any further than the existing kitchen and similar additions have been constructed in the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested side 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. The screened in porch does not extend any further than the existing kitchen and 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.

TOWN CLERK'S OFFICE

2020 JUL - 8 P 2: 12

TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested side 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
2020 JUL - 8 P 2:12
TOWN OF ORANGETOWN

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

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: July 1, 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 OF ORANGETOWN
2020 JUL -8 P 2:12
TOWN CLERK'S OFFICE

DECISION

**PERFORMANCE STANDARDS GRANTED FOR TEN YEARS FROM THE
STAMPED DATE OF THIS DECISION**

To: Tiju Daniel
121 Route 303
Orangeburg, New York 10962

ZBA #20-41
Date: July 1, 2020
Permit #N.A.

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 20-41: Application of Organic Recycling for renewal of Zoning Code Town of Orangetown Chapter 43, Section 4.12 Performance Standards that were granted in ZBA#15-36 to continue the composting operation taking place at 121 Route 303, Tappan, New York and identified on the Orangetown Tax Map as Section 74.19, Block 1, Lot 3 in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 1, 2020 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Tiju Daniel and Ben Jooi appeared and testified.

The following documents were presented:

1. Plans labeled "Site Plan and Materials Flow for Organic Recycling" dated August 28, 2014 with the latest revision date of December 23, 2016 signed and sealed by Jay A. Greenwell, L.S. (1 page).
2. ZBA Decision #15-36 dated May 6, 2015.
3. Town of Orangetown Resume of Operations and Equipment.
4. A letter dated June 11, 2020 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated May 29, 2020 from James J. Dean, Superintendent of Highways, Town of Orangetown.
6. An e-mail dated June 3, 2020 from Shajan Thottakara, P.E., Rockland County Drainage Agency.
7. A memorandum dated June 24, 2020 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown. (with attachments)
8. A memorandum dated June 30, 2020 from Eamon Reilly, P.E. Commissioner, Department of Environmental Management and Engineering, Town of Orangetown.
9. A memorandum dated June 19 2020 from Dylan Hofsiss, Junior Public Health Engineer, Department of Environmental Management and Engineering, Town of Orangetown.
10. A memorandum dated June 19, 2020 from Michael Weber, Industrial Pretreatment Director, Department of Environmental Management and Engineering, Town of Orangetown.
11. A memorandum dated June 3, 2020 from Bruce Peters , P.E. Engineer IV, Department of Environmental Management and Engineering, Town of Orangetown.

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

TOWN CLERK'S OFFICE

2020 JUL - 8 P 2: 12

TOWN OF ORANGETOWN

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since this applications entails the ZBA engaging in a review to determine compliance with technical requirements, this application is exempt from environmental review under the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (28); which does not require SEQRA environmental review. The motion was seconded by Mr. Bonomolo and carried as follows: Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Valentine, aye; and Ms. Castelli, aye.

Donald Brenner, Attorney testified that he had represented this client for twenty-five years; that they are good neighbors and if they are an asset to the Town; that Ben Jooi has been before the Board five times and whenever there was a problem he dealt with it immediately; that they meet all the requirements for a Special Permit and they would like to ask for an extension for 25 years but they would be amendable to ten years.

Ben Jooi testified that they have run the composting yard waste since 1999; that they no longer compost grass at the site because it caused an odor problem; that they take the grass to their site in Goshen which is larger and in a much more rural setting; that they compost garden waste for roof top, garden, top soil, light weight soil; that they have mulches, items for erosion control and that they are good neighbors; that they have allowed the town to dump snow on the site and they do the road sweeps every year and screen pebbles for pipe drops and larger stone for fieldstone walls.

Tiju Daniel testified that this is the 5th time they have been renewed by the DEC and that they will address the concerns of Michael Weber from the DEME.

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:

TOWN OF ORANGETOWN
2020 JUL - 8 P 2:12
TOWN CLERK'S OFFICE

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all of the documents submitted, the Board found and concluded that:

Based upon the information contained in: (i) the applicant's Resume of Operations and Equipment and the Fire Prevention Supplement; (ii) the reports dated June 30, 2020 from Eamon Reilly, P.E., Commissioner of the Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.) with attached memorandums from Bruce Peters, P.E, Engineer IV dated June 3, 2020; Michael Weber, Industrial Pretreatment Director, dated June 19, 2020; and Dylan Hofsis, Junior Public Health Engineer dated June 19, 2020 (iii) the report dated June 24, 2020 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.);(iv) the e-mail from the County of Rockland Drainage Agency from Shajan S. Thottakara, P.E.:(v) the letter dated June 11, 2020 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner; (ix) the other documents submitted to the Board and the testimony of Applicant's representatives, the Board finds and concludes that the application conforms with the Performance Standards set forth in Zoning Code Section 4.1, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., and B.F.P., and all other departments having jurisdiction of the premises.

DECISION: In view of the foregoing and the testimony and documents submitted, the Board RESOLVED that the Application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is APPROVED with the following SPECIFIC CONDITIONS: (1) that the Applicant adhere to all of the requirements set forth in the report by Chief Fire Inspector Bettmann, B.F.P., dated April 21, 2015 and June 24, 2020; and (2) that the Applicant adhere to all of the requirements set forth by the reports dated June 30, 2020 from Eamon Reilly, P.E., Commissioner, June 19, 2020 Michael Weber, Industrial Pretreatment Director, June 19, 2020 Dylan Hofsis, Junior Public Health Engineer, D.E.M.E.; and (3) the height of the compost piles shall not exceed 20'; 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.

TOWN CLERK'S OFFICE

2020 JUL - 8 P 2: 12

TOWN OF ORANGETOWN

(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 renewal/ extension for Performance Standard is APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Bonomolo, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Valentine, aye; and Ms. Castelli, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: July 1, 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-

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

TOWN OF ORANGETOWN
2020 JUL -8 P 2:12
TOWN CLERK'S OFFICE

DECISION

**FLOOR AREA RATIO, SIDE YARD AND TOTAL SIDE YARD VARIANCES
APPROVED: UNDERSIZED LOT AND PRE-EXISTING NON-CONFORMING FRONT
STEPS ACKNOWLEDGED**

To: Michael Dugandzic
45 Oldert Drive
Pearl River, New York 10965

ZBA #20-42
Date: July 1, 2020
Permit #50026

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-42: Application of Michael Dugandzic for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .23 proposed), 9 (Side Yard: 20' required, 19.7' proposed) and 10 (Total Side Yard: 50' required, 40.3' proposed) for an addition to an existing single-family residence. The premises are located at 45 Oldert Drive, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.18, Block 2, Lot 63 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 1, 2020 at which time the Board made the determination hereinafter set forth.

Michael Dugandzic and Danielle Parks appeared and testified.

The following documents were presented:

1. Plans labeled "Dugandzic Residence" dated April 9, 2020 with the latest revision date of May 4, 2020 signed and sealed by Bart Rodi, P.E... (3 pages).
2. A letter in support of the application signed by two neighbors.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Mr. Bonomolo, 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. Bonomolo, aye; Mr. Valentine, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye.

Michael Dugandzic testified that they purchased their house in June 2014; that since that time they have had their daughter Maya; that they would like to expand the house because they are hoping to expand their family and they want to stay in this neighborhood because they have great neighbors; and he went through his application meeting the five criteria for granting a variance; and that they do have a shed in the backyard and he will measure it and come in and add it to the site plan; and that the steps in the front of the house are existing at and not being changed.

Danielle Parks testified that she grew up in River Vale and has extended family in Pearl River; that they always visited when she was younger and she loves Pearl River; that they have reached out to their neighbors and have one letter in support; that they spoke to the neighbors at 43, 50 and 39 Oldert Drive and all of them are in support but she didn't get a letter from them; that she is a teacher and would like her daughter in the Pearl River Schools because they are such good schools.

TOWN CLERK'S OFFICE

2020 JUL - 8 P 2: 12

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.

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, side yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the neighborhood. The Board acknowledged the pre-existing non-conforming front steps and the undersized lot. The applicant shall add the exiting shed to the site plan.
2. The requested floor area ratio, side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the neighborhood. The Board acknowledged the pre-existing non-conforming front steps and the undersized lot. The applicant shall add the exiting shed to the site plan.
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 and total side yard 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 additions have been constructed in the neighborhood. The Board acknowledged the pre-existing non-conforming front steps and the undersized lot. The applicant shall add the exiting shed to the site plan.

TOWN CLERK'S OFFICE
2020 JUL -8 P 2:12
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, side yard, and total side yard variances are APPROVED; and the existing front steps and under sized lot is 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.

(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
2020 JUL -8 P 2:12
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested floor area ratio, side yard, and total side yard variances are APPROVED; and the undersized lot and pre-existing non-conforming front steps are acknowledged; was presented and moved by Mr. Sullivan, seconded by Mr. Bonomolo and carried as follows: Mr. Valentine, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: July 1, 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 CLERK'S OFFICE
2020 JUL -8 P 2:12
TOWN OF ORANGETOWN

DECISION

SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: Michael and Sheri Fitzpatrick
65 Moison Road North
Blauvelt, New York 10913

ZBA #20-43
Date: July 1, 2020
Permit #50066

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-43: Application of Michael and Sheri Fitzpatrick for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12 Columns 9 (Side Yard: 20' required, 10.5' proposed) and 10 (Total Side Yard: 50' required, 30.75' proposed) for an above-ground pool at an existing single-family residence. The premises are located at 65 Moison Road, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 70.10, Block 2, Lot 19 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 1, 2020 at which time the Board made the determination hereinafter set forth.

Michael and Sheri Fitzpatrick appeared and testified.

The following documents were presented:

1. Plot plan with the proposed pool drawn on it.

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. Bonomolo, aye; Mr. Valentine, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye.

Sheri Fitzpatrick testified that they live on Moison Road not far from Bailey's Smokehouse (restaurant located at Erie Street): that the yard is very hilly and this is the flattest section of the yard; that they are hoping to be able to install the above ground pool soon because it has been a long spring with no school and working from home and the summer will be so enjoyable if they can install the pool; that the yard is already fenced in.

Michael Fitzpatrick testified that the neighbor's house is equal distance from their house and the shed is 8' x 10' and they will add it to the site plan; that there is no need for excavation to install the pool; that the pool company will just level the area more.

Public Comment:

No public comment.

TOWN CLERK'S OFFICE
2020 JUL -8 P 2:12
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.

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested side yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The topography of the lot does not offer many flat areas to install a pool.
2. The requested side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The topography of the lot does not offer many flat areas to install a pool.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested side yard and total side yard variances although somewhat substantial, 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 pools 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
2020 JUL -8 P 2:11
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 and total side 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.


TOWN OF ORANGETOWN
2020 JUL -8 P 2:11
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested side yard and total side yard variances are APPROVED; was presented and moved by Mr. Bonomolo, seconded by Mr. Quinn and carried as follows: Mr. Valentine, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: July 1, 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-Dave M.

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

TOWN OF ORANGETOWN
2020 JUL -8 P 2:11
TOWN CLERK'S OFFICE