

MINUTES  
ZONING BOARD OF APPEALS  
June 3, 2020

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

ABSENT: NONE

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

NEW ITEMS:

CECUNJANIN 191 Liberty Road Tappan, New York 77.05 / 3 / 58; R-15 zone	FLOOR AREA RATIO, SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#20-15
SKAE POLE BARN 337-339 Blaisdell Road Orangeburg, NY 76.08 / 1 / 4; LIO zone	ACCESSORY STRUCTURE SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#20-26
DELUCA 86 Hunt Avenue Pearl River, NY 68.16 / 5 / 8; RG zone	SIDE YARD VARIANCE APPROVED UNDERSIZED LOT ACKNOWLEDGED	ZBA#20-33
RUDDY 53 Washington Avenue Pearl River, NY 68.16 / 4 / 21; RG zone K.J	LOCAL LAW #7 SECTION 4.58 EXCEPTION GRANTED	ZBA#20-34

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 9:00 P.M.

Dated: June 3, 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

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DECISION

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

To: Kier Levesque (Cecunjanin)  
49 3<sup>rd</sup> Avenue  
Nyack, New York 10960

ZBA #20-15  
Date: February 19, 2020, June 3, 2020  
Permit #49540

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-15: Application of Sead Cecunjanin 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, 17' 3" proposed) and 10 (Total Side Yard: 50' required, 47.2' proposed) for an addition to an existing single-family residence. The premises are located at 191 Liberty Road, Tappan, New York and is identified on the Orangetown Tax Map as Section 77.05, Block 3, Lot 58 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, February 19, 2020 and June 3, 2020 at which time the Board made the determination hereinafter set forth.

Kier Levesque, Architect and Sead Cecunjanin and appeared and testified.

The following documents were presented:

1. Plans labeled "Cecunjanin Addition 191 Liberty Road, Tappan NY" dated October 16, 2019 signed and sealed by Kier Levesque, Architect.
2. "Plot plan for building addition Cecunjanin" dated 10/08/2019 signed and sealed by Jay A. Greenwell, L.S.
3. Two letters from abutting property owners stating concerns about the project.

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

At the Zoning Board of Appeals Hearing on February 19, 2020 Kier Levesque, Architect, testified that they are encroaching into the side yard in order to get past the window in the kitchen; that there is a six foot fence around the entire rear of the property; that the addition is as small as they would make it and is only 850 sq. ft.; that the side yard encroachment is 2.7' and the total side yard is 2.8'; that if the room was reduced to 15' the furniture would have to be on the short wall and it would change the flow of the room; that he does not know the height of the existing roof of the covered deck and doesn't know if the roof over the addition would be higher and asked for a continuance to come back with that information.

Sead Cecunjanin testified that the deck was existing and that they added to roof over it; that the new addition will be the same height as the covered deck; that he has four children ages 21, 18, 10 and 8; that the room would be used as a family room; that the house as it exists has a two-car garage, living room, dining room, kitchen and playroom on the first floor and four bedrooms and

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two baths on the second floor; and that he would ask for a continuance to return with the measurements of the roof for the Board.

Items submitted for the June 3, 2020 hearing:

1. Architectural plans labeled "Cecunjanin Addition 191 Liberty Road, Tappan NY" dated October 16, 2019 revised February 28, 2020 signed and sealed by Kier B. Levesque, Architect.
2. Plot Plan for building addition Cecunjanin dated 10/08/ 2019 signed and sealed by Jay A. Greenwell, L.S. not new revision dates.
3. A letter from an abutting property owner dated March 11, 2020 with concerns about noise and privacy requesting plantings between the properties.
4. An e-mail from Donald Wainland dated May 7, 2020 stating that he has no objections to the variance that Mr. Cecunjanin is requesting.
5. An e-mail from Kier Levesque dated May 18, 2020 forwarded from Mr. Cecunjanin regarding a conversation that he had with a neighbor regarding the requested variance.

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

Kier Levesque, Architect, Sean Cecunjanin and Salmira Gacebic appeared and testified.

Kier Levesque, Architect, testified that the last time they appeared before the Board they were asked for the height of the screened in porch and the distances to the adjacent neighbors; that both have been supplied; that the addition is on the side of the property closest to the Kline's' and they have not commented; that the pictures show the proposed addition staked out and the neighbors were invited over to see the stakes; that Mr. Wei did not want to attend; that they did look at moving the addition over but it would not work without doing a complete kitchen renovation; that if it were moved in four feet it would also impact the egress window in the bedroom above the proposed first floor addition.

Salmira Gacebic testified that the addition does not anyway impact Mr. Wei; that it cannot be seen from his house; that if they made the room longer and more narrow it would be seen by Mr., Wei and it would not function as well for their family; that they really enjoy the large window in the kitchen for light and air; and the neighbor most effected by the proposal is not opposed to it.

Sean Cecunjanin testified that if he had to make the addition flush with the house he would like to know how far back he could go without the need for a variance and his wife said that she does not want a tunnel room.

Public Comment:

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The Board discussed the difference about adding further back and staying in line with the house or permitting a minimal side yard variance and agreed that the longer room would be more visible to the Wei property and less desirable as a family gathering space.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio, side yard 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 area.
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 area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio, side yard and total side yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar additions have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

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The foregoing resolution to approve the application for the requested floor area ratio, side yard and total side yard variances are APPROVED; was presented and moved by Mr. Bosco, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Sullivan, 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: June 3, 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

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DECISION

**SIDE YARD AND TOTAL SIDE VARIANCES TO STRUCTURES APPROVED**

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

ZBA #20-26  
Date: June 3, 2020  
Permit #47781

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 20-26: Application of Skae Site Plan Building Expansion for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, LIO District, Columns 9 (Side Yard: 100' required, 33.5' existing to 10' x 15' accessory structure; 55.8' existing to the pole barn addition) and 10 (Total Side Yard: 200' required, 89.3' existing). The property is located at 337-339 Blaisdell Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 76.08, Block 1, Lot 4 in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 3, 2020 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney and Peter Skae appeared and testified.

The following documents were presented:

1. Plans labeled "Site Plan of Pole Barn Addition for Skae Training located in Town of Orangetown" dated April 24, 2019 signed and sealed by Steven Michael Sparaco, P.E. ( 6 pages).
2. Skae Warehouse plans by Kier B. Levesque Architect not signed or sealed progress print dated December 18, 2018 A-2, A-3, A-4.
3. Plans Project: Peter Skye dated 5/19/18 with the latest revision date of 5/10/18 signed and sealed by Dain R. Drake, P.E. (14 pages).
4. Planning board decision # 18-35 for permit #47781 dated September 12, 2018.
5. A letter dated March 13, 2020 from the Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
6. A letter dated March 16, 2020 from the Rockland County Department of Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
7. A letter dated February 26, 2020 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
8. A no comments at this time sign off by Dyan Rajasingham, Rockland County Highway Department dated February 18, 2020.

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 made a motion 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 for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulation § 617.6 (b) (3); and since the Planning board conducted SEQRA review and rendered an environmental determination of no significant adverse environmental impacts to

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result from the proposed land use action (i.e. a “Negative Declaration” or “Neg Dec”) on September 12, 2018 (as set forth in PB #18-35), and as reaffirmed on July 31, 2019 (as set forth in PB#19-50), rendered an environmental determination that no significant adverse environmental impacts would result from the proposed land use actions (i.e. a “Negative Declarations” of “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 § 617.5 (b) (3); which motion was seconded by Mr. Bonomolo and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Valentine, aye; and Ms. Castelli, aye.

Donald Brenner, attorney testified that this a unique piece of property that received Planning Board approval on July 21, 2019 and is accessed through New Jersey; that the existing structure on the lot is a small house (residence) that was originally granted a variance but is to revert back to commercial use; that the Pole Barn would connect to the existing structure and be used for storage purposes; that the antennae that the County was talking about has been taken off the plans because it was never built and is no longer being proposed.

Peter Skae testified that the house was built in 1906; that it was originally attached to the camp (that was on an abutting lot) and was used as a residence; that now it has IT equipment and computer cabinets in it and that the lot is large but 10 acres of the site is wetlands and cannot be developed.

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.

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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 for accessory structures will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is large but oddly shaped and contains 10 acres of wetlands that cannot be used; the proposal makes the best use of the usable portion of the property.
2. The requested side yard and total side yard variances for accessory structures will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property is large but oddly shaped and contains 10 acres of wetlands that cannot be used; the proposal makes the best use of the usable portion of the property.
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 for accessory structures, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The property is large but oddly shaped and contains 10 acres of wetlands that cannot be used; the proposal makes the best use of the usable portion of the property.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested side yard and total side yard variances for accessory structures 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.

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General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.


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The foregoing resolution to approve the application for the requested side yard and total side yard variances for accessory structures are APPROVED; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Quinn, aye; Mr. Bosco, 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: June 3, 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

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DECISION

**SIDE YARD VARIANCE APPROVED; UNDERSIZED LOT ACKNOWLEDGED  
3.4' SIDE YARD FOR THE EXISTING GARAGE ACKNOWLEDGED**

To: Dominick Caponigro (DeLuca)  
8 Adler Court  
West Haverstraw, New York 10993

ZBA #20-33  
Date: June 3, 2020  
Permit #49744

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-33: Application of Michael DeLuca 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, 9.6' existing, 8' proposed) ; ( Section 5.21 Undersize lot applies) for an addition to an existing single-family residence. The premises are located at 86 Hunt Avenue, Pearl River, New York and is identified on the Orangetown Tax Map as Section 68.16, Block 5, Lot 8 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 3, 2020 at which time the Board made the determination hereinafter set forth.

Michael DeLuca appeared and testified.

The following documents were presented:

1. Plans labeled "DeLuca Residence One-Story Addition" dated October 10, 2019 signed and sealed by Harold J. Goldstein, Architect. (2 pages).

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

Michael DeLuca testified that he has lived in the house for two years; that he has four children and is divorced; that the house has three bedrooms and 1 ½ baths; that he has his children at the house 30% of the time; that his girlfriend and her three daughters just moved in; that her daughters are living in the house 70% of the time; that the combined family of seven kids requires more space and more bathrooms; and they would like to add a master bedroom and bath upstairs and a large room below it with another bathroom in the future; and that the existing garage was built in 1924.

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Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the undersized lot and noted that similar additions have been constructed in the neighborhood. The Board also acknowledged that the garage that was constructed in 1924 was set back 3.4' from the side yard.
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 Board acknowledged the undersized lot and noted that similar additions have been constructed in the neighborhood. The Board also acknowledged that the garage that was constructed in 1924 was set back 3.4' from the side yard.
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 Board acknowledged the undersized lot and noted that similar additions have been constructed in the neighborhood. The Board also acknowledged that the garage that was constructed in 1924 was set back 3.4' from the side yard.

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5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

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

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The foregoing resolution to approve the application for the requested side yard variance is APPROVED and the existing 3.4' side yard for the existing detached garage and undersized lot is acknowledged; was presented and moved by Mr. Bonomolo, seconded by Mr. Quinn and carried as follows: Mr. Bosco, 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: June 3, 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 JUN 10 P 12:21  
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DECISION

**LOCAL LAW #7 SECTION 4.58 EXCEPTION APPROVED**

To: Catherine Ruddy  
53 East Washington Avenue  
Pearl River, New York 10965

ZBA #20-34  
Date: June 3, 2020  
Permit #49864

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-35: Application of Catherine Ruddy for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 4.58 (owner who first converts the dwelling must have resided in said dwelling for at 15 years; 13 years verified ownership) to legalize an existing local law #7 apartment. The premises are located at 53 East Washington Avenue, Pearl River, New York and is identified on the Orangetown Tax Map as Section 68.16, Block 4, 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, June 3, 2020 at which time the Board made the determination hereinafter set forth.

Catherine Ruddy appeared and testified.

The following documents were presented:

1. Plans labeled "Ruddy Residence" dated March 20, 2020 signed and sealed by John Anthony Ferraro, Architect. (1 page).
2. Site Plan labeled Lee Residence 53 Washington Avenue Pearl River not dated Gordon A. Gebert, Architect.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Valentine, aye; and Ms. Castelli, aye.

Catherine Ruddy testified that she purchased her house 13 years ago as a two-family; that she was told that she had a legal apartment in the house; that she has been paying taxes on a two family; that she is in the process of selling the house and during the listing process, she found out that she does not have a C of O for a two family house; that she doesn't have a local law #7 and that she was duped when she purchased the house 13 years ago; that she purchased it with the

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apartment; that she always thought she had a legal apartment and she would like to legalize the apartment now; that as far as she knows it was a mother daughter for at least 20 years; and she has spent thousands of dollars for architectural plans and electric underwriters certificate; that she will decide not to sell the house and just legalize the apartment if the board grants her a variance to get the local law #7 legal apartment; that taking out the stove to sell the house is just duping the next owner and not solving any of the problems.

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 Local Law #7 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The 481 sq. ft. second floor apartment existed when the applicant purchased the house and she is legalizing the existing condition by requesting the Local Law #7.
2. The requested Local Law #7 variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The 481 sq. ft. second floor apartment existed when the applicant purchased the house and she is legalizing the existing condition by requesting the Local Law #7.
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 Local Law #7 variance although somewhat substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The 481 sq. ft. second floor apartment existed when the applicant purchased the house and she is legalizing the existing condition by requesting the Local Law #7.

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5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Local Law #7 variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

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The foregoing resolution to approve the application for the requested Local Law #7 variance is APPROVED; was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Mr. Bosco, 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: June 3, 2020

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
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