

MINUTES
ZONING BOARD OF APPEALS
March 17, 2021

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

ABSENT: BILLY VALENTINE

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

BCH REALTY
20 Mountainview Avenue
Orangeburg, New York
74.07 / 1 / 27; LI & CC zones

§ 9.34 EXTENSION OF
NON-CONFORMING BULK
APPROVED: ONE TIME EXPANSION
PARKING IN YARDS APPROVED

ZBA#21-26

GORCZYNSKI
73 Lois Drive
Pearl River, New York
69.17 / 3 / 11; R-15 zone

FRONT YARD VARIANCE
APPROVED

ZBA#21-27

PERLMAN
39 Oldert Drive
Pearl River, New York
69.16 / 3 / 21; R-15 zone

FRONT YARD VARIANCE
APPROVED

ZBA#21-28

DAVIS
657 Gilbert Avenue
Pearl River, New York
69.18 / 4 / 68; R-15 zone

FLOOR AREA RATIO
VARIANCE APPROVED

ZBA#21-29

MC CORMACK
47 Salina Road
Pearl River, New York
68.11 / 2 / 63; R-15 zone

SIDE YARD AND REAR YARD
FOR A POOL APPROVED

ZBA#21-30

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TOWN CLERK'S OFFICE

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application: Comito-Bight Lane Site Plan, Critical Environmental Area, 455 South Broadway, Upper Grandview, 71.05 / 2 / 12.2; RG zone; 524 Route 303 Building Addition Site Plan, 524 Route 3030, Blauvelt, NY 70.19/1/44' LO zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings 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 8:15 P.M.

Dated: March 17, 2021

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By *Deborah Arbolino*

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

SECTION 9.34 (50% EXPANSION OF NON-CONFORMING USE) AND SECTION 3.11, LI DISTRICT, COLUMN 7 #8 PARKING IN FRONT YARD & SIDE YARD VARIANCES APPROVED

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

ZBA #21-26
Date: March 17, 2021
Permit #45277

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 21-26: Application of BCH Realty LLC Site Plan for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 9.34 (Extension or enlargement of a non-conforming use shall not be extended except as follows: To the extent the district bulk regulations permit, an on application of the Board of Appeals, any use, except a sign, first permitted by right or by special permit, in any district, may be extended up to but not exceeding an aggregate increase of 50% in its floor area or of its land area occupancy if a nonbuilding use. However, this provision may be used only once for each such use) and from Section 3.11, LI District, Column 7 # 8 (No parking is permitted in any required yard. unless permitted by any board or town agency having jurisdiction. This permission may be granted at the time of site review or at the time of the approval of a commercial subdivision) for an extension to an existing restaurant. The property is located at 20 Mountain view Avenue, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.07, Block 1, Lot 27 in the LI & CC zoning districts.

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

Donald Brenner, Attorney, Attorney, appeared and testified.

The following documents were presented:

1. Plans labeled "BCH Realty, LLC" dated January 28, 2020 with the latest revision date of 8/18/2020 signed and sealed by Steven Michael Sparaco, P.E.. (7 pages).
2. A memorandum dated May 18, 2020 to Cheryl Coopersmith, Chief Clerk from Jane Slavin, RA., Director, O.B.Z.P.A.E..(2 pages)
3. Planning Board Preliminary Site Plan Approval dated May 27, 2020.
4. A letter dated March 17, 2021 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated March 10, 2021 from Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.

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

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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 ZBA 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 Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and, on May 27, 2020 (BCH Realty, LLC Site Plan) rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declarations" of "Neg Dec."), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b)(3). The motion was seconded by Mr. Quinn and carried as follows: Ms. Castelli, aye; Mr. Quinn, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; and Mr. Bosco, aye.

Donald Brenner, Attorney, testified that Del Arte Restaurant has existed since 1990 and the store front next to the restaurant is empty; that the owner would like to expand into that space, which is 1,975 sq. ft. ; that the parking requirement increase would be 13 spaces; that they are requesting to expand the parking in the front and side of the restaurant for guests; that the employees would continue to park in the rear of the building; that there would be 76 new spaces for total of 110; that some would be on side and some in the front where there is presently grass; that they need thirteen more than allotted amount; that the full amount were never put in when the building was constructed.

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. Bosco and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

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1. The requested one time 50% expansion of a non-conforming use variance and parking in yards variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The restaurant has been a successful business in the Town of Orangetown for over 25 years and adding parking in the front and side will accommodate many Orangetown customers.
2. The requested one time 50% expansion of a non-conforming use variance and parking in yards variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . The restaurant has been a successful business in the Town of Orangetown for over 25 years and adding parking in the front and side will accommodate many Orangetown customers.
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 one time 50% expansion of a non-conforming use variance and parking in yards variance variances although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The restaurant has been a successful business in the Town of Orangetown for over 25 years and adding parking in the front and side will accommodate many Orangetown customers.
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 one time 50% expansion of a non-conforming use variance and parking in yards variance 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.

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(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 one time 50% expansion of a non-conforming use variance and parking in yards variance are APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, aye. Mr. Valentine was absent.

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

DATED: March 17, 2021

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

DECISION

FRONT YARD VARIANCE APPROVED

To: Kerry Gorczynski
73 Lois Drive
Pearl River, New York 10965

ZBA #21-27
Date: March 17, 2021
Permit #51049

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-27: Application of Kerry Gorczynski for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M. Column 8 (Front Yard: 30' required, 28' 6" proposed) for a front porch at an existing single-family residence. The premises are located at 73 Lois Drive, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.17, Block 3, Lot 11 in the R-15 zoning district.

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

Kerry and Benjamin Gorczynski appeared and testified.

The following documents were presented:

1. Plans labeled "Gorczynski Residence One-Story Addition" dated December 10, 2020 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 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. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye; and Mr. Quinn, aye.

Denise Sullivan, Deputy Town Attorney disclosed that she lives directly across the street and this application has no impact on her ability to give legal advice

Benjamin Gorczynski testified that they have two young children and after this past year being home on lock down with the kids, they would like to add some more enjoyable space for the family; that they need a front yard variance in order to add the front porch; and that there are several other houses in the area with similar front porches.

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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 front yard variance 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.
2. The requested front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested front yard variance is not substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar additions have been constructed in the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

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

General Conditions:

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

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

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

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

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

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

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

DATED: March 17, 2021

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

DECISION

14' FRONT YARD VARIANCE APPROVED: 14' 8" PRE-EXISTING SIDE YARD AND UNDERSIZE LOT §5.21 ACKNOWLEDGED

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

ZBA #21-28
Date: March 17, 2021
Permit #50966

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-28: Application of Scott and Kimberly Perlman for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Column 8 (Front Yard: 30' required, 14' proposed) Column 9 (pre-existing 14' 8" side yard recognized) (Section 5.21 Undersized lot acknowledged) for an addition to an existing single-family residence. The property is located at 39 Oldert Drive, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.18, Block 2, Lot 62 in the R-15 zoning district.

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

Scott and Kimberly Perlman and Karl Ackermann, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "Proposed Addition/ Alteration for Mr. & Mrs. Perlman" dated 12/5/2020 with the latest revision date of 01/01/20 signed and sealed by Karl Ackermann, Architect. (2 pages).

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

On advice of 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. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

Karl Ackermann, Architect, testified that the Perlman's have lived in the house ten plus years and have six children; that they need more living space and they are proposing to add on, move the kitchen to the front of the house and this will give them the space they need; that the proposed addition is on the Oldert Drive right side of the house that serves as their side yard although according to code is the second front yard; that they did build a deck but that did not require a variance; that the deck is on the west side rear yard; and that they do have an existing non-conforming side yard on 14' 8" and the proposed new front yard would be 14'.

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Public Comment:

No public comment.

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Mr. 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 14' front yard (North side) variance 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 also acknowledged Section 5.12 Undersize lot and a pre-existing non-conforming side yard of 14' 8"(South side).
2. The requested 14' front yard (North Side) variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the neighborhood. The Board also acknowledged Section 5.12 Undersize lot and a pre-existing non-conforming side yard of 14' 8"(South side).
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 14' front yard (North side) variance although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar additions have been constructed in the neighborhood. The Board also acknowledged Section 5.12 Undersize lot and a pre-existing non-conforming side yard of 14' 8"(South side).
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested 14' front yard variance (North side) is APPROVED and the undersized lot and pre-existing nonconforming 14' 8" (South side) side yard 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.


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The foregoing resolution to approve the application for the requested 14' (North side) front yard variance is APPROVED and the undersize lot and pre-existing non-conforming 14' 8" side yard (South side) is acknowledged; was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, 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: March 17, 2021

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

FLOOR AREA RATIO VARIANCE APPROVED

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

ZBA #21-29
Date: March 17, 2021
Permit #51070

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-29: Application of Robert and Caryn Davis for a variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: 20% permitted, 29.9% proposed) for a proposed detached garage at an existing single-family residence. The property is located at 657 Gilbert Avenue, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.18, Block 4, Lot 68 in the R-15 zoning district.

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

Robert Davis and Karl Ackermann, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "Proposed Garage for Mr. & Mrs. Davis" dated 12/19/2020 with the latest revision date of 1/30/2021 signed and sealed by Karl Ackermann, Architect. (4 pages).
2. Survey dated January 11, 2021 signed and sealed by James Gerard Scheurmann, L.S..

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

Karl Ackermann, Architect, testified that the applicant is planning to remove the existing shed and temporary structure from the property in order to build the proposed detached garage; that they have all terrain vehicles that they want to house in the proposed garage; that the house does have a garage below grade; that the lot is undersized and pie shaped and a bit difficult to work with; that if the lot was 15,000 sq. ft. the proposed floor area ratio would only be .22; and that there are other houses in the immediate are with detached garages.

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Robert Davis stated that he has lived in the house for twenty five years.

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. Bosco and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio 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 garages have been constructed in the neighborhood.
2. The requested floor area ratio 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 garages 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 floor area ratio 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 Board acknowledged the undersized lot and noted that similar garages have been constructed in the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested floor area ratio 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 floor area ratio variance is APPROVED and the undersized lot is acknowledged; was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, 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: March 17, 2021

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

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SIDE YARD VARIANCE AND REAR YARD VARIANCE FOR A POOL APPROVED WITH SPECIFIC CONDITION THAT A SIX FOOT SOLID FENCE REMAIN INSTALLED IN THE REAR PROPERTY AND ANY OUTDOOR LIGHTING SHALL CONFORM WITH TOWN CODE

To: Ryan and Siobhan McCormack
47 Salina Road
Pearl River, New York 10965

ZBA #21-30
Date: March 17, 2021
Permit #51110

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-30: Application of Ryan and Siobhan McCormack for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 3.12, Group M, Column 9 (Side Yard: 20' required, 8' proposed) and from Section 5.227 (Rear Yard set-back for pool: 20' required, 10' proposed) for an in-ground pool at an existing single-family house. The premises are located at 47 Salina Road, Pearl River, New York and is identified on the Orangetown Tax Map as Section 68.11 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, March 17, 2021 at which time the Board made the determination hereinafter set forth.

Ryan and Siobhan McCormack appeared and testified.

The following documents were presented:

1. Copy of the survey with the pool dated November 6, 2020 with the latest revision date of 1/28/ 2021 signed and sealed by Steven Michael Sparaco, L.S..
2. Three letters from abutting property owners in support of the application.
3. Zoning Board Decision #12-09 for Michael Woods at 7 Salina Road that received similar variances for a pool.
4. An e-mail dated March 16, 2021 from Kenneth and Jean McIntyre asking for a fence, trees and any outdoor lighting should conform with all town codes.
5. Five computer generated pictures of the yard submitted at the hearing by Siobhan McCormack.

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

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Ryan Mc Cormack testified that they purchased the house six years ago from his parents; that they have three boys aged seven, five and four; that they love swimming and after being locked down they decided that they would like to install the pool and enjoy the yard; that the other side of the yard which is pie shaped, that the west side of the house has no windows; and the rear of the property has a lot of trees.

Siobhan McCormack testified that the reason they are proposing this area for the pool is because it is easily viewed from the kitchen and if she had to run into the house to get something she would still be able to see the pool and the kids; that her four year old is quick and she wanted a bit of space between the house and pool because he is her reckless child; that she has spoken to Mrs. McIntyre and the fence is already installed; that they do plan on doing some type of planting inside the fence but they were thinking of arborvitae, depending on what the landscaper recommends; and she showed the Board five computer generated pictures of the yard and the trees already existing between the properties.

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 and rear yard for a pool variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar variances have been granted for construction of in-ground pools in the neighborhood. The applicant has already installed a six foot solid fence and the rear of the property is heavily wooded.
2. The requested side yard and rear yard for a pool variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar variances have been granted for construction of in-ground pools in the neighborhood. The applicant has already installed a six foot solid fence and the rear of the property is heavily wooded.

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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 side yard and rear yard for a pool 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 variances have been granted for construction of in-ground pools in the neighborhood. The applicant has already installed a six foot solid fence and the rear of the property is heavily
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 and rear yard for a pool variances are APPROVED with the Specific Condition that a six-foot fence remain in effect in the rear yard and that any outdoor lighting shall conform with all town codes; 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

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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 side yard and rear yard for a pool variances are APPROVED with the Specific Condition that a six-foot fence remain in effect in the rear yard and that any outdoor lighting shall conform with all town codes; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, aye. Mr. Valentine was absent.

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

DATED: March 17, 2021

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By



Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
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