

MINUTES
ZONING BOARD OF APPEALS
September 16, 2020

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

ABSENT: NONE

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:

SMK GREENE SUBDIVISION 318 Western Highway Tappan, New York 74.18 / 2 / 3; R-15 zone	STREET FRONTAGE VARIANCE FOR LOT #4 APPROVED	ZBA#20-57
SORCE ASSUMMA & SHANKEY FUNERAL HOME 34 North Summit Street Pearl River, NY 68.19 / 2 / 15; RG zone	SECTION 9.34, FLOOR AREA RATIO VARIANCE APPROVED FRONT YARD, SIDE YARD, PARKING ACCESSORY STRUCTURE LOCATION VARIANCES ACKNOWLEDGED AS PRE-EXISTING NON-CONFORMING CONDITIONS AND VARIANCES ARE GRANTED	ZBA#20-58
CURCIO 72 Liberty Road Tappan, NY 77.09 / 1 / 13; R-15 zone	SIDE YARD, TOTAL SIDE YARD AND REAR YARD VARIANCES APPROVED	ZBA#20-59
CROWE 35 Sunrise Lane Pearl River, New York 69.18 / 3 / 44; R-15 zone	FLOOR AREA RATIO VARIANCE APPROVED UNDERSIZED LOT ACKNOWLEDGED	ZBA#20-60

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63 WASHINGTON SPRING ROAD
63 Washington Spring Road
Palisades, New York
78.18 / 1 / 16; R-22 zone

FLOOR AREA RATIO ZBA#20-61
VARIANCE APPROVED

BATTAGLIA
4 Dorsey Court
Orangeburg, New York
69.08 / 1 / 4.1; R-40 zone

FLOOR AREA RATIO AS ZBA#20-62
MODIFIED APPROVED (.216)
REAR YARD VARIANCE AS
MODIFIED APPROVED (24')
SECTION 6.332 VARIANCE IS NOT REQUIRED
BOARD FOUND PAVERS EQUILEVANT TO
ASPHALT IN ZBA #19-111 DATED 12/4/ 2019

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: 60-70 Dexter Plaza Exterior Stairs Site Plan, 60-70 Dexter Plaza, Pearl River, NY, 68.20 / 1 / 1.30; LI zone; ; 4-6 Dexter Plaza Exterior Stairs Site Plan, 4-6 Dexter Plaza, Pearl River, NY, 68.20 / 1 / 1.40; LI zone; Hawks View Site Plan , 296 South Boulevard, Upper Grandview, NY, 71.05 / 1 / 22.1; R-15 zone; Bergson Subdivision Plan, 56 Woods Road, Palisades, NY, 78.18 / 1 / 3.1-2; R-80 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

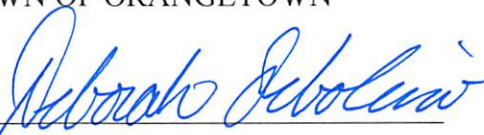
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 9.10 P.M.

Dated: September 16, 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
STREET FRONTAGE VARIANCE FOR LOT #4 APPROVED

To: Jay Greenwell
85 Lafayette Avenue
Suffern, NY 10901

ZBA #20-57
Date: September 16, 2020
Permit # N.A.

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-57: Application of SMK Greene Subdivision for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-15 District, Group M, Section 3.12., Column 7 (Street Frontage: 75' required, 25' proposed for lot #4) of a proposed five (5) lot residential subdivision for single-family residences. The property is located at 318 Western Highway, Tappan, New York and is identified on the Orangetown Tax Map as Section 74.18, Block 2, Lot 3 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 16, 2020 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney and Sean Keenan, owner, appeared and testified.

The following documents were presented:

1. Plans labeled "Subdivision of Property for SMK Greene" dated July 10, 2020 signed and sealed by Jay A. Greenwell, L.S, LLC.. (2 pages).
2. Narrative Summary dated July 22, 2020 by Jay Greenwell, L.S.
3. Planning Board Decision #2020 dated June 24, 2020.
4. A memorandum from the Rockland County Department of Planning stating that the item is not in their jurisdiction.
5. A letter dated September 11, 2020 from the County of Rockland Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
6. A no comment at this time. memo from Dyan Rajasingham, P.W., Rockland County Highway.

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 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 June 24, 2020 (PB#20-20 SMK Subdivision 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 Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Bosco.

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Donald Brenner, Attorney, testified that the parcel of land is 1.75 acres; that the site has frontage on Greene Road, Independence Avenue and Western Highway; that the property is zoned R-15; that the property has 76,014 sq. ft. in total, which provides enough lot area for five conforming R-15 lots; that the geometry of the parcel contributes to one lot needing a variance for lot frontage; that the applicant is requesting to build five dwellings with proposed lot #4 needing a variance for 25' frontage vs. the 75' requirement; that the project appeared first before the Planning board with a layout that depicted three lots oriented towards Green Road, one lot facing Independence Ave. and the remaining lot accessing Western Highway; that the public and the Planning Board's concerns led to the development of a revised layout with two driveways on Western Highway as submitted; that this layout received preliminary approval from the Planning Board subject to securing the frontage variance; that if the Planning Board wants 30' of street frontage as comment #3 in the planning board decision states they will have to return to this Board, but it may be a typo.

Sean Keenan testified that he had Jay Greenwell, he surveyor for the project on the phone and he did not remember any requirement from the Planning Board for a 30' wide driveway; and that they would like to move forward as requested for the 25' variance and if necessary they will return to the Board for changes is necessary.

Mr. Bosco questioned why the Planning Board decision stated that they wanted a 30' street frontage and not the 25' shown on this map.

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 street frontage variance for lot #4 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Planning Board and the neighbors preferred this layout of the subdivision.
2. The requested street frontage variance for lot #4 will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

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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 a variance.
4. The requested street frontage variance for lot #4 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.
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 street frontage variance for lot #4 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.

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

The foregoing resolution to approve the application for the requested street frontage variance for lot #4 is APPROVED and the undersized lot is acknowledged; was presented and moved by Mr. Sullivan, seconded by Mr. Quinn and carried as follows: Ms. Castelli, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Mr. Bosco, 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: September 16, 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-N.A.

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

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**Amendment to PB #20-20: SMK Greene Subdivision Plan
Preliminary Subdivision Plan Approval
Subject to Conditions
Neg. Dec.**

**Town of Orangetown Planning Board Decision
September 17, 2020
Page 1 of 1**

**TO: Jay Greenwell, 85 Lafayette Avenue, Suffern,
New York, 10901
FROM: Orangetown Planning Board**

RE: SMK Greene Subdivision Plan – Amendment to Decision: The application of SMK Home Builders, owner, for an Amendment to PB#20-20, Preliminary Subdivision Plan at a site to be known as “**SMK Greene Subdivision Plan**”, in accordance with Article 16 of the Town Law of the State of New York, the Land Development Regulations of the Town of Orangetown, Chapter 21 of the Code of the Town of Orangetown and to determine the environmental significance of the application pursuant to the requirements of the New York State Environmental Quality Review Act. The site is located at 318 Western Highway, Tappan, Town of Orangetown, Rockland County, New York, in the Tappan Historic Area and as shown on the Orangetown Tax Map as Section 74.18, Block 2, Lot 34; in the R-15 zoning district.

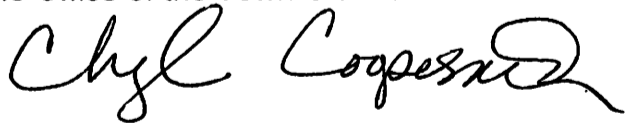
The Board at the June 24, 2020 voted to not include conditions #1, #2 and #3 of Jane Slavin’s memo dated June 18, 2020, see attached. Condition # 3 of PB#2020, dated June 24, 2020 shall be deleted:

3. The applicant is required to obtain approval from the Town of Orangetown Zoning Board of Appeals for the following variance: Per Chapter 43, table 3.12, Column 7;

<u>Variance</u>	<u>Required</u>	<u>Proposed</u>
Lot #4 - Minimum Street Frontage	75 feet	30 feet

The foregoing Resolution was made and moved by William Young and second by Bruce Bond and carried as follows: Thomas Warren, Chairman, aye; William Young, Vice Chairman, aye; Andrew Andrews, aye; Bruce Bond, aye; Michael Mandel, nay; Robert Dell, recused; Stephen Sweeney, absent and Michael McCrory, nay.

The Clerk to the Board is hereby authorized, directed and empowered to sign this **DECISION** and file a certified copy in the Office of the Town Clerk and the Office of the Planning Board.



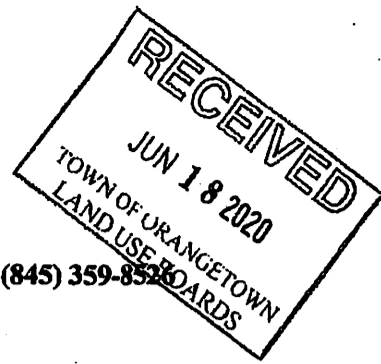
**Revised: September 17, 2020
Dated: June 24, 2020**

attachment

TOWN CLERK'S OFFICE
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OFFICE OF BUILDING, ZONING, PLANNING
ADMINISTRATION AND ENFORCEMENT
TOWN OF ORANGETOWN
20 GREENBUSH ROAD
ORANGETOWN, N.Y. 10962




Jane Slavin, RA
Director

(845) 359-8410

Fax: (845) 359-8526

Date: June 18, 2020

To: Cheryl Coopersmith, Chief Clerk
Planning Board

From: Jane Slavin, RA., 
Director O.B.Z.P.A.P.

Subject: **SMK Greene Subdivision Plan**
Prepreliminary/Preliminary Subdivision Plan and SEQRA Review
318 Western Highway, Tappan
74.18-2-34, R-15 zoning district

Submission Reviewed:

Subdivision of property as prepared by Jay A. Greenwell, PLS Dated 11/26/2019.
Revised Bulk Regulations table submitted by Jay A. Greenwell, PLS Dated 5-29-2020.

The applicant is proposing a five-lot subdivision.

- 1) The Bulk Table has been revised per my comments from my May 29, 2020 letter.
- 2) Per Chapter 43, table 3.12, Column 5, minimum lot area required is 15,000 square feet with 14,760 proposed for lot 3. Variance required.
- 3) Per Chapter 43, table 3.12, Column 7, minimum street frontage required is 75' with 30' proposed for lot 4, Variance required.
- 4) ACABOR review and approval is required.
- 5) The LEAF appears to be in order.

JS 6/18/2020

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DECISION

§9.34 NON-CONFORMING USE EXPANSION; FLOOR AREA RATIO, FRONT YARD, SIDE YARD VARIANCES APPROVED; § 3.11 RG ZONE, COLUMN 6 PARKING VARIANCE APPROVED; § 5.153 ACCESSORY STRUCTURE LOCATION VARIANCES APPROVED

To: Donald Brenner (Sorce Assumma & Shankey)
4 Independence Avenue
Tappan, New York 10983

ZBA #20-58
Date: September 16, 2020
Permit #49032

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-58: Application of Sorce Assumma & Shankey Funeral Home for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43 Article IX Non-conforming Use, 9.34: to the extent the district bulk regulations permit, and on application of the Board of Appeals, any use, except a sign, may be extended up to but not exceeding an aggregate increase of 50% in its floor area) and from Chapter 43, RG District, Group T, Section 3.12, Column 4 (Floor Area Ratio: 30% permitted, 60% existing, 63% proposed); 8 (Front Yard: 75' required, 0' existing to canopy, and 23.1' existing to main structure, 37' proposed to addition); 9 (Side Yard: 50' required, 6.7' existing, 7.3' proposed to addition, 7.7 to west corner); Section 3.11, RG District, Column 6 Parking requirements same as R-15 District (200 sq. ft. of gross floor area but not less than 1 space for each 5 seats where provided: Thirty-one (31) spaces required per 1/200 sq. ft. with eight (8) spaces existing and proposed): and per Section 5.153 (locations of accessory buildings shall conform to the district and shall not be located on a front yard: (10' x 10' shed is located in the northeast corner of the front yard 3.6' rear yard: and a 8' x 12' shed is located 2.4' from the rear yard and 2.6' from the southern side yard); for a 250' sq. ft. addition to an existing funeral home. The funeral home is located at 34 North Summit Street, Pearl River, New York and is identified on the Orangetown Tax Map as Section 68.19, Block 2, Lot 15 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 16, 2020 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Plans labeled "Site Plan for Sorce Assumma-Shankey Funeral Home" dated September 23, 2019 with the latest revision date of January 31, 2020 signed and sealed by Robert Sorace, PLS (1 page).
2. Planning Board Decision #20-14 dated May 13, 2020.
3. A letter dated September 10, 2020 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated September 11, 2020 from the Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
5. A letter dated August 22, 2019 from Saint Margaret of Antioch Church stating that the parish has an agreement with the funeral home regarding parking on the parish property, which is signed by Reverend Eric P. Raaser, Pastor.

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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 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 13, 2020 (PB#20-14 Sorce Assumma & Shankey Funeral Home 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: Mr. Bosco, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Quinn.

Donald Brenner, Attorney, testified that this is a very unique property; existing as a funeral home for at least the last 50 to 60 years; that the majority of the variances being requested are for pre-existing non-conforming conditions; that the proposal is to add a one-story 250 sq. ft. addition to the existing structure to correct an awkward entrance into the funeral home; that they would request that the variances requested by the building department to be granted because most of them are for pre-existing conditions and the addition is only 250 sq. ft..

Mr. Sorce testified that they have submitted at least three previous plans as requested by the Director of the Building Department; and that he has owned the property for about two years and does not know when the funeral first started operating.

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:

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1. The requested §9.34, floor area ratio, front yard, side yard § 3.11 RG District Column 6 parking and §5.153 accessory structure location variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposal is for a 250 sq. ft. one story addition to an existing funeral home which has existed in its present location for many years. The applicant has an agreement with Saint Margaret of Antioch Church regarding parking on the parish property, which is signed by Reverend Eric P. Raaser, Pastor.
2. The requested §9.34, floor area ratio, front yard, side yard § 3.11 RG District Column 6 parking and §5.153 accessory structure location variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposal is for a 250 sq. ft. one story addition to an existing funeral home which has existed in its present location for many years. The applicant has an agreement with Saint Margaret of Antioch Church regarding parking on the parish property, which is signed by Reverend Eric P. Raaser, Pastor.
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 §9.34, floor area ratio, front yard, side yard § 3.11 RG District Column 6 parking and §5.153 accessory structure location variances although somewhat substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The proposal is for a 250 sq. ft. one story addition to an existing funeral home which has existed in its present location for many years. The applicant has an agreement with Saint Margaret of Antioch Church regarding parking on the parish property, which is signed by Reverend Eric P. Raaser, Pastor.
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 §9.34, floor area ratio, front yard, side yard § 3.11 RG District Column 6 parking and §5.153 accessory structure location variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

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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 §9.34, floor area ratio, front yard, side yard § 3.11 RG District Column 6 parking and §5.153 accessory structure location variances APPROVED; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Ms. Castelli, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Mr. Bosco, 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: September 16, 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 SEP 24 A 9:31
TOWN CLERK'S OFFICE

DECISION

SIDE YARD, TOTAL SIDE YARD AND REAR YARD VARIANCES APPROVED

To: Kim Thomas Sippel (Curcio)
24 Jolliffe Lane
Congers, New York 10920

ZBA #20-59
Date: September 16, 2020
Permit #49849

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 20-59: Application of Louis Curcio for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-15 District, Group M, Section 3.12, Columns 9 (Side Yard: 20; required, 18' 6" proposed) and 10 (Total Side Yard: 50' required, 35' existing, 45' 6" proposed); and 11 (Rear Yard: 35' required, 27'9" proposed) for an addition to an existing single-family residence. The premises are located at 72 Liberty Road, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.09, Block 1, Lot 13; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 16, 2020 at which time the Board made the determination hereinafter set forth.

Kim Thomas Sippel, Architect, Louis Curcio and Mario Occhicone appeared and testified.

The following documents were presented:

1. Plans labeled "Curcio & Occhicone-Curcio" dated November 25, 2019 with the latest revision date of March 12, 2020 not signed or sealed by Ki, Thomas Sippel, Architect. (3 pages).
2. A copy of survey labeled "Curcio & Occhicone-Curio" dated February 25, 2019 by Anthony Celentano, P.L.S..
3. A letter from four abutting property owners in support of the application.

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; and Ms. Castelli, aye.

Kim Sippel, Architect, testified that his clients purchased the house about 1 ½ years ago in a foreclosure; that shortly after that that, Mr. Curcio had emergency heart surgery; that the existing deck was in bad shape and the family thought they would help the family out by fixing and rebuilding the deck; that they did that but changed the configuration of the deck and that started this process; that the property is a trapezoid shaped property and the deck needs variances; that they are appearing before the Board today to request forgiveness and variances for the side yard, total side yard and rear yard;

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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, total side yard and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is oddly shaped like a trapezoid and the new deck intrudes less into the rear deck than the deck that previously existed. The applicant has support from four abutting property owners for the project.
2. The requested side yard, total side yard and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property is oddly shaped like a trapezoid and the new deck intrudes less into the rear deck than the deck that previously existed. The applicant has support from four abutting property owners for the project.
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, total side yard and rear yard variances 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 property is oddly shaped like a trapezoid and the new deck intrudes less into the rear deck than the deck that previously existed. The applicant has support from four abutting property owners for the project.
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 SEP 24 A 9:31
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, total side yard, and rear 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 CLERK'S OFFICE
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The foregoing resolution to approve the application for the requested side yard, total side yard and rear yard variances are APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Castelli 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: September 16, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2020 SEP 24 A 9:31
TOWN CLERK'S OFFICE

DECISION

FLOOR AREA RATIO AND SIDE YARD VARIANCES APPROVED; UNDERSIZED LOT ACKNOWLEDGED

To: Thomas Crowe
35 Sunrise Lane
Pearl River, New York

ZBA #20-60
Date: September 16, 2020
Permit #50215

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-60: Application of Thomas Crowe for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-15 District, Group M, Section 3.12, Column 4 (Floor Area Ratio: .20 Permitted, .35 proposed), 9 (Side Yard: 15' required, 6' 10" proposed) (Section 5.227 Undersized lot applies) for an addition to an existing single-family dwelling. The property is located at 35 Sunrise Lane, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.18, Block 3, Lot 44 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 16, 2020 at which time the Board made the determination hereinafter set forth.

Thomas and Francine Crowe appeared and testified.

The following documents were presented:

1. Plans labeled "35 Sunrise Lane Rear Addition" dated June 18, 2020 with the latest revision date of July 7, 2020 signed and sealed by Luke Petrocelli, Architect. (3pages).
2. Survey labeled " Property Lot Line Change for Warren & Crowe" dated May 22, 2001 by Robert Sorace, PLS.

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

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

Thomas Crowe testified that they would like to use the space in the rear of the house where a deck exists and replace it with a permanent foundation with a wood framed one story enclosure; that they are getting a little older and tired of bugs and would like to have bit more privacy; that enclosing the space would afford them more use of it; that they have been in the house for 35 years and the 6' 10" side yard is existing; and that they did a subdivision in 2001.

Public Comment:

No public comment.

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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 and side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the undersized lot and noted that similar additions have been constructed in the neighborhood.
2. The requested floor area ratio and side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged the undersized lot and noted that similar additions have been constructed in the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio and side yard variances are 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.
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
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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 and 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.

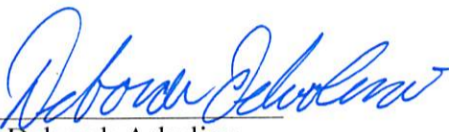
TOWN CLERK'S OFFICE
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The foregoing resolution to approve the application for the requested floor area ratio and side yard variances are APPROVED and the undersized lot is acknowledged; was presented and moved by Ms. Castelli, seconded by Mr. Bosco and carried as follows: Mr. Bonomolo, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bosco, 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: September 16, 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-Dom. M.

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

TOWN OF ORANGETOWN
2020 SEP 24 A 9:31
TOWN CLERK'S OFFICE

DECISION

FLOOR AREA RATIO VARIANCE APPROVED

To: Margaret Fowler (63 Washington Spring Rd)
500 N. Broadway
Upper Nyack, New York

ZBA #20-61
Date: September 16, 2020
Permit #50312

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-61: Application of 63 Washington Spring Road for variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Section 3.12, Group I, Column 4 (Floor Area Ratio: .20 permitted, .226 proposed) for an addition to an existing single-family residence. The premises are located at 63 Washington Spring Road, Palisades, New York and is identified on the Orangetown Tax Map as Section 78.18, Block 1, Lot 16 in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 16, 2020 at which time the Board made the determination hereinafter set forth.

Margaret Fowler, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "Baryshnikov Rinehart" dated June 29, 2020 signed and sealed by Margaret Fowler, Architect. (11 pages).
2. Survey dated September 20, 2019 by William E. James P.E, PLS.
3. Ten (10) computer generated pictures of the house.

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

Margaret Fowler testified that the owner purchased the house 2 years ago for their kids; that they live close by in Snedan's Landing; that they are proposing to bump out above and existing foundation roof and add a new bathroom and closet; that the existing second floor landing is in need of retrofitting because presently is in not safe; that they would end up with a nice closet and bathroom; that the house has a cliff behind it and this small addition will not impact the neighborhood; that this is a modest addition that will make the interior of the house work much more efficiently.

Public Comment:

No public comment.

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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 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 floor area ratio 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 floor area ratio 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.

TOWN OF ORANGETOWN
2020 SEP 24 A 9:31
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 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; was presented and moved by Mr. Bonomolo, seconded by Mr. Bosco 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: September 16, 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
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DECISION

**SECTION 6.332 VARIANCE IS NOT REQUIRED: THE BOARD FOUND THAT
PAVER BLOCKS ARE EQUIVALENT TO ASPHALT (ZBA#19-111 12/4/2019)
FLOOR AREA RATIO AS AMENDED TO .216 APPROVED
REAR YARD VARIANCE AS AMENDED TO 24' APPROVED**

To: Jonathan Hodash (Battaglia)
22 Third Street
New City, New York

ZBA #20-62
Date: September 16, 2020
Permit #50258

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-62: Application of Phil Battaglia for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-40 District, Group E, Section 3.12, Column 4 (Floor Area Ratio: .15 Permitted, .23 proposed), 11 (Rear Yard: 50' required, 20' proposed) and from Section 6.332 (Asphalt Driveway required, paver blocks proposed) for an addition to an existing single-family dwelling. The property is located at 4 Dorsey Court, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 69.08, Block 1, Lot 4.1 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 16, 2020 at which time the Board made the determination hereinafter set forth.

Jonathan Hodash, Architect, and Audrey Lupachino, Jr. Design Draftsman at Hodash Associates, appeared and testified.

The following documents were presented:

1. Plans labeled "The Battaglia Residence" dated September 24, 2019 with the latest revision date of June 12, 2020 signed and sealed by Jonathan Hodash, Architect. (13 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. Quinn, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye.

Jonathan Hodash, Architect, testified that the house was built in 2001 and in 2017 and extension was done that added to the floor area ratio from 0.15 to 0.157; that they are proposing an open air gazebo with an outdoor kitchen for the rear yard because they recently installed an in-ground pool; that the gazebo needs the rear yard variance because the property is zoned R-40 and in the R-40 zone the accessory structure setbacks are more restrictive than the other residential zones;

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that they are also proposing a two-story addition at the rear of the house to extend the kitchen to add an eat in area and the 2nd floor bedroom and bath would be extended above that area; that they are proposing a one story addition next to this; that one of the existing garages would be converted to a pantry and storage area and then they are proposing a breezeway and a four car garage addition; that if approved as presented they would have a total of six car garages; that they could make reductions if that is the only way to get an approval; that there are five people living in the house; that one of the problems that exist in the house is that one of the garage that exists and is being converted to pantry and storage is directly under the master bedroom and Mr. Battaglia is a light sleeper; that if they must, they could reduce the gazebo to 20' x 30' a reduction of 264 sq. ft. and they could remove one of the new proposed garage bays, a reduction of 318 sq. ft.; that the total reduction would be 575 sq. ft., bringing the new proposed floor area ratio to 0.216.

Michael Bosco and Dan Sullivan asked the applicant how he can lower the floor area ratio.

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 variance from Chapter 43 § 6.332 for a paver driveway is not necessary, the Zoning Board made a finding in ZBA# 19-111 dated December 4, 2019 that paver driveways are equivalent to asphalt driveways and a variance is not required.
2. The requested floor area ratio variance as modified (0.216) and rear yard variance as modified (24') 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.

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3. The requested floor area ratio variance as modified (0.216) and rear yard variance as modified (24') will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions and driveways have been constructed in the neighborhood.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
5. The requested floor area ratio variance as modified (0.216) and rear yard variance as modified (24') 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 and driveways have been constructed in the neighborhood.
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 floor area ratio variance as modified (0.216) and rear yard variance as modified (24') are APPROVED; and FURTHER RESOLVED, that the requested Section 6.332 variance for Paver blocks instead of asphalt is not necessary: THE BOARD HAS DETERMINED THAT PAVERS AND ASPHALT ARE EQUIVALENT and therefor NO VARIANCE IS REQUIRED; and STILL FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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


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

The foregoing resolution to approve the application for the requested floor area ratio variance as modified (0.216) and rear yard variance as modified (24') are APPROVED; and FURTHER RESOLVED, that the requested Section 6.332 variance for Paver blocks instead of asphalt is not necessary: THE BOARD HAS DETERMINED THAT PAVERS AND ASPHALT ARE EQUIVALENT and therefor NO VARIANCE IS REQUIRED; was presented and moved by Mr. Bosco, 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: September 16, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERK'S OFFICE
2020 SEP 24 A 9:30
TOWN OF ORANGETOWN