

MINUTES
ZONING BOARD OF APPEALS
September 2, 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

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:

ROBINSON 149 Pearce Parkway Pearl River, New York 69.09 / 3 / 21; R-15 zone	FLOOR AREA RATIO VARIANCE APPROVED AS CORRECTED (0.247)	ZBA#20-51
STAMPONE 54 Schreiber Street Tappan, NY 77.06 / 3 / 36; R-15 zone	FLOOR AREA RATIO AND SECTION 5.153 ACCESSORY STRUCTURE DISTANCE FROM PRIMARY STRUCTURE VARIANCES APPROVED	ZBA#20-52
HENRY KAUFMANN CAMPGROUNDS 667 Blauvelt Road Pearl River, NY 69.10 / 2 / 21& 69.14 / 1 / 28; R-80 zone	SECTION 4.32 (b)(i) YARDS SPACING OF BUILDINGS AND SCREENING VARIANCES APPROVED FOR SIX STRUCTURES AT 92 ND STREET Y CAMPUS	ZBA#20-53
HYUN 161 Tweed Boulevard Upper Grandview, NY 75.09 / 1 / 3; R-22 zone	FLOOR AREA RATIO, FRONT YARD, REAR YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#20-54
LANE RE-SUBDIVISION 125 Park Avenue Palisades, NY 77.20-2-76; R-15 zone	LOT AREA VARIANCE AND NYS TOWN LAW 280-(a) EXCEPTION APPROVED	ZBA#20-55

TOWN CLERK'S OFFICE
2020 SEP 15 A 10:03
TOWN OF ORANGETOWN

ORANGE BANK & TRUST
SITE PLAN
374 South Middletown Road
Nanuet, NY
64.17 / 1 / 78; CO zone

SECTION 3.11, COLUMN 5 #6
SIGM AREA VARIANCE APPROVED

ZBA#20-56

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 10:45 P.M.

Dated: September 2, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 

Deborah Arbolino, Administrative Aide

DISTRIBUTION:
APPLICANT
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
TOWN BOARD MEMBERS
BUILDING INSPECTOR (Individual Decisions)
Rockland County Planning

TOWN OF ORANGETOWN
2020 SEP 15 A 10:03
TOWN CLERK'S OFFICE

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TOWN CLERK'S OFFICE
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TOWN OF ORANGETOWN

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Dated: September 2, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 

Deborah Arbolino, Administrative Aide

DISTRIBUTION:
APPLICANT
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BUILDING INSPECTOR (Individual Decisions)
Rockland County Planning

TOWN OF ORANGETOWN
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DECISION

**FLOOR AREA RATIO VARIANCE APPROVED: UNDERSIZED LOT
ACKNOWLEDGED**

To: Darren and Fiona Robinson
149 Pearce Parkway
Pearl River, New York 10965

ZBA #20-51
Date: September 2, 2020
Permit #50263

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-51: Application of Darren and Fiona Robinson 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 4 (Floor Area Ratio: .20 permitted, .218 existing, .247 proposed) for an addition to enlarge the existing kitchen and replace an old garage with a new two car garage at an existing single-family residence. The premises are located at 149 Pearce Parkway, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.09, Block 3, Lot 21 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 2, 2020 at which time the Board made the determination hereinafter set forth.

Darren and Fiona Robinson appeared and testified.

The following documents were presented:

1. Plans labeled "Robinson Residence One-Story Addition" dated October 8, 2018 signed and sealed by Harold J. Goldstein, Architect. (2 pages).
2. A letter dated August 9, 2020 from the Rockland County Department of Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
3. A letter dated August 28, 202 from the Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
4. A memorandum dated July 24, 202 from Rockland County Planning stating that the application is not in their jurisdiction.
5. A letter signed by four abutting neighbors 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; Mr. Valentine, aye; and Ms. Castelli, aye.

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Darren Robinson testified that they are proposing to demolish the existing garage and build a new foundation further away from the house and about 6' from the property line and to enlarge the kitchen with a new foundation at the rear of the house; that the garage will be 20' x 24'; that it will be slightly larger than the existing garage and the kitchen addition is about 18' x 18'; that they are also planning to re-side the house.

The plans that were distributed to the Board were 11' x 17' and the Board and applicant were having problems reading the bulk table. The clerk had larger plans and read that the total square footage after the proposed addition was 3,713 sq. ft. and the original denial stated that the proposed FAR was 37.13%; a typo. The proposed FAR is 0.247.

Public Comment:

Stella Gilseman, 24 Meadows Street stated that she would object if the expansion came close to her property line and when she found out the addition is going out into the rear of the house and the application is for property diagonally across the street from her she stated that she had no objection.

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 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.

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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. 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.

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.

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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 floor area ratio variance is APPROVED and the undersized lot is acknowledged; was presented and moved by Mr. Quinn, seconded by Ms. Sullivan 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 2, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERK'S OFFICE
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DECISION

**FLOOR AREA RATIO AND SECTION 5.153 ACCESSORY DISTANCE FROM
PRINCIPAL BUILDING VARIANCES APPROVED**

To: Nicola Stampone
54 Schrieber Street
Tappan, New York 10983

ZBA #20-52
Date: September 2, 2020
Permit #50114

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-52: Application of Nicola Stampone for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-15 District, Group M, Column 4 (Floor Area Ratio: 20% permitted, 22% existing) and from Section 5.153 (Accessory Structure Distance from Primary Structure: 15' required, 7' existing) for an existing pergola at an existing single-family residence. The premises are located at 54 Schreiber Street, Tappan, New York and is identified on the Orangetown Tax Map as Section 77.06, Block 3, Lot 36 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 2, 2020 at which time the Board made the determination hereinafter set forth.

Nicola Stampone appeared and testified.

The following documents were presented:

1. Copy of the survey with the Pergola drawn on it.
2. Two pictures of the existing Pergola.

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

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

Mr. Stampone testified that his wife's cousin built the pergola ten years ago that he did not know that he needed a permit; that when he came in to get a permit for an above ground pool he was told he needed a permit; that he applied for the permit; that the pergola is 8' high; that he found out the pergola was built too close to his house; and that is how he ended up in front of the zoning board.

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Public Comment:

Joseph Hickey, 32 Schrieber Street, testified that the structure is beautiful and it adds character to the neighborhood and he is in support of the granting of the variance.

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 and the accessory distance variance from the principal building will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The pergola was constructed quite a while ago without incident and this lot is one of the larger lots in the neighborhood.
2. The requested floor area ratio variance and the accessory distance variance from the principal building will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The pergola was constructed quite a while ago without incident and this lot is one of the larger lots 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 these variances.
4. The requested floor area ratio variance and the accessory distance from the principal building 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 pergola was constructed quite a while ago without incident and this lot is one of the larger lots 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 and the accessory structure distance from the principal building 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.

(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 and the accessory structure distance from principal building variance are APPROVED; was presented and moved by Mr. Bonomolo, 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 2, 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
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TOWN CLERK
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FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

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DECISION

SECTION 4.32 (b) (i) VARIANCES APPROVED

To: Donald Brenner (Henry Kaufmann-92nd St. Y)
4 Independence Avenue
Tappan, New York 10983

ZBA #20-53
Date: September 2, 2020
Permit #

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-53: Application of Henry Kaufmann Campgrounds for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-80 District, Section 4.32 (b)(i) "Yards, spacing of buildings and screenings . No buildings, tent, activity area or recreation facility shall be less than 300 feet from any lot line" The following proposed structures require variances as follows:

- a) Amphitheatre 92Y-2 proposed setback- 161.8'
- b) Home base HB-92Y-7 proposed setback- 15.4'
- c) Home base HB-92Y-8 proposed setback- 283.4'
- d) Home base HB-92Y-9 proposed setback - 104.7'
- e) Home base HB-92Y-10 proposed setback- 214'
- f) Home base HB-92Y-11 proposed setback- 42.9' for the proposed 92nd Street Y campus.

The premises are located at 667 Blauvelt Road, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.10, Block 2, Lot 21 and Section 69.14, Block 1, Lot 28; in the R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 2, 2020 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Gerhard Schwalbe, P.E., Donna Maniello, ASLA, PLA and Jason Popkin, A.I.A., appeared and testified.

The following documents were presented:

1. Plans labeled "92Y and 12 Trails Site Plan" dated 3/13/2020 with the latest revision date of 7/9/2020 signed and sealed by Gerhard Martin Schwalbe, P.E. (6 pages).
2. A cover letter dated March 20, 2020 from Donald Brenner, P.E., LL.B.
3. A memorandum dated June 22, 2020 from Jane Slavin, RA., Director, OBZPAE to Cheryl Coopersmith, Chief Clerk.
4. Planning Board Decision# 20-31 Preliminary Site Plan Approval and Neg Dec. dated July 8, 2020.
5. A letter dated July 28, 2020 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
6. A letter dated August 28, 2020 from Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
7. A letter dated August 4, 2020 from Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
8. A letter dated August 19, 2020 from the Rockland County Center of Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.

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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 July 8, 2020 (PB # 20-31: Henry Kaufman Campground, Inc.; Phase II Master Plan Development; JUA Federation NY-92nd Street Y and 12 Trails) 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. Bonomolo and carried as follows: Mr. Quinn, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Bosco.

Donald Brenner, Attorney, testified that the proposed project is a phase of the development of the master plan for Henry Kaufmann Campgrounds Master Plan; that it includes building, site and utility improvements for the 92nd Street Y and 12 Trails camp area; that the improvements are not proposed to increase the population of the camps but are proposed to enhance the experience of the current staff and camper populations; that Jason can explain the changes to the structures; that the sound mitigation is controlled by the walls on the new structures and moving the amphitheater further into the campground site; and that they are hoping to start construction on the previously approved Bronx house section of the camp this month; and that they are scheduled to appear before ACABOR about landscaping and then they have to return to the Planning Board again.

Gerhard Schwalbe testified that of the 105.9 acres Henry Kaufmann Campground site, the combined areas of improvement for this phase are approximately 19 acres; that at the northeast corner of the site, within the 92Y camp area, the improvements include the removal of 4 homebases and 2 restroom buildings to be replaced by 4 new homebases that include restroom facilities; that an existing Amphitheatre is proposed to be relocated further north and west so that it is more distant from adjacent neighbors; that within the 12 Trials camp area, the improvements include the removal of 2 homebases and 1 restroom building to be replaced by 3 new homebases that include restroom facilities; that a new aquatic complex with two pools, a lifeguard building and a storage shed will be located at the southernmost end of the improvement area; that new septic systems with subsurface discharge are proposed to serve all the new buildings with restroom facilities and existing buildings to remain; that improvements to recreational area are proposed including the renovation of two basketball courts, and the improvement of an existing grass play area with a baseball field and two new playfields; and existing tennis court will also be improved; that the proposed improvements will have new stormwater management structures to treat the stormwater runoff from buildings and pavement; and underground infiltration structures will capture and retain the runoff before it infiltrates into the ground.

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Jason Popkin testified that the new structures will be open air structures with bathrooms on the right and storage areas on the left and they will face inward to the camp that some trees will be removed for the expansion of these structures but they are not clear cutting and the size of the structures are almost double in size but will include bathrooms and storage; that the height will be about 20' high .

Donna Maiello pulled up drawings of the proposed new structures for the Board and public to see.

Public Comment:

Michael Nicodema, 1 Briarwood Lane, testified that he has a couple of questions; that he thought he heard that these enhancements are not to increase the number of campers but just their experience and he would like to know if he heard correctly; and he would like to know how much of the tree line would be removed between Briarwood and the area of the six variances in this area.

Kevin McCormack, 83 Sickletown Road, thanked the Board for the work they do; that the drainage on the campgrounds has improved; and asked several questions: what percentage is each homebase increasing in size; will there be sound mitigation; are they planning any ne landscaping for the trees that will be removed; what is the difference in height of the old homebases and the new homebases; and is anything going to be done for tree removal remediation.

Kathy Vanderlind, (clerk did not get her address), testified that she is happy that the campground is making improvements and hopes it remains a summer day camp.

Gerhard Schwalbe answered some of the questions; there will not be an increase in number of campers; some of the homebases are remaining in the same locations and trees directly adjacent to them will have to be removed in order to enlarge them but there is no plan to clear trees; that the new homebases have solid backs which will help with sound remediation and the amphitheater is being moved further away from the houses.

Jason Popkin answered that the homebase are presently about 1,600 sq. ft. and the new bases will be about double in size to 3,000 sq. ft. but they will include bathrooms (approximately 1,000 sq. ft.) and incorporate storage; that the back walls will be from 20" to 30" thick and only have a 2' opening at the top for air circulation; that this will help with noise mitigation; and they will be increased in height from 12' to 20'.

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.

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FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested Section 4.32 (b) (i) variances for five (5) homebases and an amphitheater will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed improvements shall help address some of the concerns from neighbors about sound mitigation by replacing the existing shelter with an open air pavilion with solid rear walls (facing the neighboring residences) and keeping the rear of the homebase building toward the neighboring residences; and by moving the amphitheater further into the interior of the site, it will also help mitigate noise and the new structures will be much more attractive.
2. The requested Section 4.32 (b) (i) variances for five (5) homebases and an amphitheater will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed improvements shall help address some of the concerns from neighbors about sound mitigation by replacing the existing shelter with an open air pavilion with solid rear walls (facing the neighboring residences) and keeping the rear of the homebase building toward the neighboring residences; and by moving the amphitheater further into the interior of the site, it will also help mitigate noise and the new structures will be much more attractive.
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 Section 4.32 (b) (i) variances for five (5) homebases and an amphitheater 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 proposed improvements shall help address some of the concerns from neighbors about sound mitigation by replacing the existing shelter with an open air pavilion with solid rear walls (facing the neighboring residences) and keeping the rear of the homebase building toward the neighboring residences; and by moving the amphitheater further into the interior of the site, it will also help mitigate noise and the new structures will be much more attractive.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Section 4.32 (b) (i) variances for five (5) homebases and an amphitheater as presented are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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The foregoing resolution to approve the application for the requested Section 4.32 (b) (i) variances as requested are APPROVED; was presented and moved by Mr. Sullivan, 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 2, 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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DECISION

**FLOOR AREA RATIO, FRONT YARD, REAR YARD AND BUILDING HEIGHT
VARIANCES APPROVED**

To: Mikyong Hyun
139 Washington Spring Road
P.O. Box 689
Palisades, New York 10964

ZBA #20-54
Date: September 2, 2020
Permit #49477

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 20-54: Application of Mikyong Hyun for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-22 District, Group I, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .52 existing, 1.19 proposed); 8 (Front Yard: 40' required, 15.9' existing, 1.7' proposed); 11(Rear Yard: 45' required, 0' existing & proposed to new addition) and 12 (Building Height: 9" per 1' permitted, 19.5" per 1' existing, 208" per 1' proposed) for an addition to an existing single-family residence. The premises are located at 161 Tweed Boulevard, Upper Grandview, New York and are identified on the Orangetown Tax Map as Section 75.09, Block 1, Lot 3; 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 2, 2020 at which time the Board made the determination hereinafter set forth.

Mikyong Hyun and Michael Esmay, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "Addition & Alteration to the Hyun Residence" dated October 21, 2019 with the latest revision date of June 30, 2020 signed and sealed by Robert Michael Esmay, Architect. (4 pages).
2. Survey dated 08/05/2019 by Jay A. Greenwell, PLS, LLC.
3. A cover letter with pictures prepared by Michael Esmay, Architect.(10 pages)
4. Planning Board Decision #20-07 dated June 24, 2020 with a Neg. Dec.
5. A letter from the Village of Piermont dated January 17, 2020 signed by Charlie Schaub, Piermont Building Inspector.
6. A letter dated July 15, 2020 from the Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
7. A letter dated July 15, 2020 from the Rockland County Department of Planning signed by Douglas J. Schuetz., Acting Commissioner of Planning.
8. A "No comment at this time response" from the New York State Department of Transportation signed by Johnathan DeGraw.

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,

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including the Zoning Board of Appeals who consented or did not object to the Planning Board acting as Lead Agency, pursuant to coordinated review under the State Environmental Quality Review Act Regulation § 617.6 (b) (3); and since the Planning Board conducted SEQRA reviews and on June 24, 2020 (as set forth in PB #20-07 Hyun Site Plan), rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use action (i.e. a “Negative Declaration” or “Neg Dec”), the Zoning Board of Appeals is bound by the Planning Board’s Neg Dec and the Zoning Board of Appeals cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b) (3) ; which motion was seconded by Ms. Castelli and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye.

Michael Esmay, Architect, testified that the site is located on the east side of Tweed Boulevard approximately 3,000 feet north of the intersection of Tweed Boulevard and Route 9W where Tweed Boulevard has a right-of -way width of 80 feet; that the site consists of two tax lots, one located in Piermont and the smaller lot located in Orangetown’s critical environmental area; that the total are of the lot is 22,501 sq. ft. but by applying the slope deductions the effective area of the site is 13, 637 sq. ft. ; 3,175 sq. ft. in Orangetown and 10,462 sq. ft. in Piermont; that there is an existing 2 ½ story residence on the site that was constructed in 1972; that the majority of the structure sits mostly in Orangetown and is accessed by a bridge that is approximately at the level of the adjacent roadway; that the residence is in poor condition having been poorly maintained and struck by a tree causing much damage; that the proposed addition and alteration has received preliminary site plan approval from the Planning Board; That the proposed addition excluding decks will be located in Orangetown and fill the space between the existing structure and the west property line; that this will require variances for lot area, rear yard, floor area ratio. Front yard and building height; that the lot area and rear yard are existing conditions; that over the years because of the uniqueness of Tweed Boulevard many variances have been granted to properties that have not set an undesirable land use precedent; that the Orangetown tax lot are is 3,175 sq. ft. but by taking the Piermont lot into consideration even with the slope reductions the lot is 13,677 sq. ft.; the floor area ratio requirement is 0.20 and 1.19 is proposed but when the two lots are combined the floor area would be 0.276 ; much less that the 1.19 and not so substantial; that the rear yard is 0’ but when the lots are combined the rear yard is 91.5’; that there are a large percentage of residences along Tweed that have asked for and received variances mostly for front yard setback and height; that this Board has granted variances for front yard setbacks from 0’ to 13.8’ from 21 to 123 Tweed Boulevard; that the Hyuns are requesting a 1.7’ front yard set back and the house is located on the portion of Tweed Boulevard that has an 80 foot wide right-of-way; that this is a county road and the Rockland County Highway Department in their response to this application wrote “believes the proposed action would have no significant effects on the County Road and has no objection to the Town’s determination on the matter”; that the granting of the requested variances would not produce an undesirable change in the character of the neighborhood or detriment to the nearby properties; and submitted five pictures of houses on Tweed with similar front yard setbacks.

Michael Esmay further testified that because of the size and configuration of the lot as well as he steepness of the site it would be impossible to make an addition to the existing residence without having to seek area variances from the Town of Orangetown; that in order to provide vehicular access to the proposed addition a concrete retaining wall must be constructed to create a driveway from Tweed Boulevard to the new garage; that as is typical for Tweed Boulevard this wall will start within the county right-of-way; that the design of the proposed addition minimizes

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the scope of the driveway and retaining wall work; that if the addition were constructed farther to the east and down the steep slope the resultant retaining wall work to accomplish the benefit the Hyuns are seeking would exponentially increase the cost to a point that the project would be untenable; that this proposed addition and alteration is the best way to accomplish the benefit sought by Hyuns; that the variances sought are based on a grossly undersized Orangetown Tax lot and are in that context considered substantial but taken in the context of both tax lots together forming the actual lot and compared to many other properties along Tweed Boulevard the requested variances are not substantial; that this property is located in a critical environmental area both in Orangetown and Piermont and that this is a great concern for protecting the environment including site drainage, stormwater control, erosion and the protection of existing vegetation; that the addition and alteration as designed minimizes site disturbance and the amount of additional impervious surfaces and a significant reduction of impervious surface in the County right-of-way which helps to balance the additional impervious surface added due to the proposed addition; that the house exists on a small non-conforming lot in Orangetown and the area of the 80 foot Tweed Boulevard right-of-way and the steepness of the site creates a need for variances and these items were not self-created; that to answer the Rockland County Department of Planning letter dated July 15, 2020, the subject site is only 14% of the minimum lot area standard but when it is conjoined with a larger tax lot in the Village of Piermont it would have 61% of the minimum lot area; that the front yard is 96% deficient in meeting the bulk requirement and if the County right-of-way were 60 feet wide the front yard would be 29% deficient; that the 0 rear yard is an existing condition and in reality when the lots are looked at together the rear yard is actually 91.5'; that the building height is 2,311% greater than what is permitted per foot from the lot line, as noted previously other properties located along Tweed Boulevard have asked for and been granted similar or greater height variances and if the County right-of-way were 60 feet wide the height would be 310% deficient; that the floor area ratio exceeds the permitted standard by 495%, this ratio is based on the Orangetown Tax lot alone but when the two lots are considered the floor area ratio would exceed the permitted standard by 69%; that the granting of the bulk variances will set a precedent, similar and greater variances have already been granted in the area; that an increase in the residential density in this neighborhood of non-conforming parcels will negatively affect the stability of the slope, undermine the intent of the Critical Environmental Area designation, negatively affect community character and put more stress on infrastructure capacity, Additional residents will generate more traffic on local streets leading to congestion and traffic conflicts; this proposal will not increase the residential density in this neighborhood because it will not increase the number of people in the residence and it will be entirely consistent with the existing houses located along Tweed Boulevard; there will be no change in density, it was a two bedroom house and will remain a two bedroom house.

Mikyong Hyun testified that the house is in bad shape; that it worth saving; that Michael Esmay was the original architect and she is happy to have him working on the project; that she is adding a two car garage and a master bedroom suite below it; that the original bedrooms are the size of todays walk-in closets; and that she is going to have her Dad in the other bedroom with his own bathroom and there is no way to reduce the size of the proposal because it is still only a two bedroom house.

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, front yard, rear yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the deductions of the lot size for steep slope deductions and for the square footage of the property located in Piermont and with those items taken into consideration the floor area ratio variance is not extremely large. Similar front yard, rear yard and building height variances have been granted in the neighborhood.
2. The Board made a motion to over ride the Rockland County Planning Department disapproval in their letter dated July 15, 2020 for the following reasons: (1) they did not take into consideration that the building lot is located in both the Village of Piermont and the Town of Orangetown, which changes the reality of the building; (2) Many similar variances have been granted along Tweed Boulevard without causing a detriment to the neighborhood; (3) there is an existing two bedroom house that will be improved and enlarged but will remain a two bedroom house thus it will not generate additional traffic, congestion or stress on the existing infrastructure; (4) other Rockland County agencies were not objecting to the proposal.
3. The requested floor area ratio, front yard, rear yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged the deductions of the lot size for steep slope deductions and for the square footage of the property located in Piermont and with those items taken into consideration the floor area ratio variance is not extremely large. Similar front yard, rear yard and building height variances have been granted 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.

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5. The requested floor area ratio, front yard, rear yard and building height 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 Board acknowledged the deductions of the lot size for steep slope deductions and for the square footage of the property located in Piermont and with those items taken into consideration the floor area ratio variance is not extremely large. Similar front yard, rear yard and building height variances have been granted 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, front yard, rear yard and building height variances are APPROVED and to override the disapproval from Rockland County Department of Planning letter dated July 15, 2020 for the reasons stated above in findings of fact;; 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 floor area ratio, front yard, rear yard and building height variances are APPROVED and to override the disapproval from Rockland County Department of Planning letter dated July 15, 2020 for the reasons stated above in findings of fact; was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye.

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

DATED: September 2, 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-Glenn M.

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

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DECISION

LOT AREA VARIANCE APPROVED; NEW YORK STATE TOWN LAW SECTION 280 (a) EXCEPTION GRANTED

To: Ed Lane
75 Michael Roberts Court
Pearl River New York 10965

ZBA #20-55
Date: September 2, 2020
Permit #N.A.

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-55: Application of Lane Re-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 5 (Lot Area: 15,000 sq. ft. required, 14,443 proposed) and for an exception from New York State Town Law Section 280-a for a new single-family dwelling on the new consolidated lot. The property is located at 125 Park Avenue, Palisades New York and is identified on the Orangetown Tax Map as Section 77.20, Block 2, Lot 76 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 2, 2020 at which time the Board made the determination hereinafter set forth.

Stuart Strowe, Engineer, and Ed Lane appeared and testified.

The following documents were presented:

1. Plans labeled "125 Park Avenue" Site Plan dated 6/24/2020 signed and sealed by Stuart Strow, P.E. (2 pages)
2. Planning Board Decision #20-17 dated May 27, 2020.
3. Interoffice memorandum dated June 3, 2020 from James J. Dean, Superintendent of Highways. Town of Orangetown.
4. A letter dated March 31, 2020 from the Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
5. A memorandum dated March 16, 2020 from the Rockland County Department of Planning.
6. A letter dated March 12, 2020 from the NYSDEC signed by Christian Pacella, Division of Environmental Permits.
7. A letter dated May 26, 2020 addressed to the Planning Board and read into the record at the ZBA Hearing from Doris Burge and Eileen Burge, 145 Park Avenue, Palisades. (6 pages)
8. An e-mail dated September 1, 2020 from Helena Power and Terence Foxe. 152 Park Avenue, Palisades. (2 pages)
9. An e-mail dated September 1, 2020 from Michele Mante, 135 Broad Avenue, Palisades. (2 pages)
10. A letter dated September 2, 2020 from Doris and Eileen Burge, 145 Park Avenue, Palisades. (4 pages)
11. An e-mail dated September 2, 2020 from Shelly Lennox 156 Park Avenue, Palisades. (1 page)

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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Stuart Stowe, Engineer, testified that they are proposing to merge three existing undersized lots into one lot that will still be undersized by 557 sq. ft.; that the lot needs a variance for having less than the required 15,000 sq. ft. and it also needs an exception from New York State Town Law 280-a because it does not front to an improved street; that Park Avenue is a private road; that on May 27, 2020 the application received a neg Dec and preliminary approval for the subdivision; that James Dean, Superintendent of Highways, Town of Orangetown has no objection to the plan as submitted; and there is some wetlands on the property and they are permitted to fil 1/10 of an acre of the wetlands and they have documentation from the Army Corp. of Engineers.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that Since the Planning Board noticed its intent to declare itself Lead agency and distributed that notice of intention to all involved agencies, including the Zoning Board of Appeals who consented or did not object to the Planning Board acting as Lead Agency, pursuant to coordinated review under the State Environmental Quality Review Act Regulation § 617.6 (b) (3); and since the Planning Board conducted SEQRA reviews and on May 27, 2020 (as set forth in PB #20-17), rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use action (i.e. a "Negative Declaration" or "Neg Dec"), the Zoning Board of Appeals is bound by the Planning Board's Neg Dec and the Zoning Board of Appeals cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b) (3) ; which motion was seconded by Ms. Castelli and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye.

Public Comment:

Helena Power, 152 Park Avenue, Palisades, testified that the engineer referred to the letter from James Dean not objecting to the plan and questioned whether there could be a problem with the developer veering the undedicated portion of the road onto the current owners' property; that SHIPO (NY State Historic Preservation Office) requested review; and that the New Jersey Department of Historic Preservation should be noticed.

James Beni, 135 Park Avenue, testified that he is the owner of 135 Park Avenue and that the proposed "veering" into the road is not giving access over his property.

Ann Savattieri, 162 Park Avenue, Palisades, testified that she did not get notified about the meeting; that she has lived here for 20 years; that the area is congested; that there is not enough room for access for another home; that after the last storm the public roads were full of piles of debris from the private roads and the houses are very close together and the noise from all the generators were already very loud.

Terence Foxe, 152 Park Avenue, Palisades, testified that Park Avenue roadway bends to the left and the plot plan goes left out of the culvert and he is looking for clarification regarding the 30' setback from the right-of-way.

Denise Sullivan, Deputy Town Attorney, explained to the public that the application will be heard by ACABOR for plantings and screening and then it must go back to the Planning Board.

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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 lot area variance and New York State Town Law 280-(a) exception will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant is combining three existing undersized lots to one lot that is still short of lot area by 557 sq. ft. and the property would not be accessible without the granting of the 280-(a).
2. The requested lot area variance and New York State Town Law 280-(a) exception will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant is combining three existing undersized lots to one lot that is still short of the 15,000 sq. ft. lot area by 557 sq. ft. and the property would not be accessible without the granting of the 280-(a).
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining the variance and New York State Town Law 280-(a) exception.
4. The requested lot area variance and New York State Town Law 280-(a) exception 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 applicant is combining three existing undersized lots to one lot that is still short of the 15,000 sq. ft. lot area by 557 sq. ft. and the property would not be accessible without the granting of the 280-(a).
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 lot area variance and NYS Town Law exception for 280-a 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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Lane Re-Subdivision
ZBA#20-55
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Permit #N.A.

The foregoing resolution to approve the application for the requested lot area variance and New York State Town Law 280-(a) exception are APPROVED; was presented and moved by Mr. Bosco, seconded by Mr. Bonomolo 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 2, 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

TOWN CLERK'S OFFICE
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DECISION

SECTION 3.11, COLUMN 5 #6 SIGN AREA VARIANCE APPROVED

To: Brock DeGraw (Orange Bank & Trust)
55 North Street
Middletown, New York 10940

ZBA #20-56
Date: September 2, 2020
Permit #49629

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-56: Application of Orange Bank & Trust Site for variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, CO District, Section 3.11, Column 5 #6 (total sign area shall not exceed 12 sq. ft.: proposed monument is 26.81 sq. ft. and proposed façade signage is 21 sq. ft.) for Monument and Façade signs at a proposed new bank. The proposed bank shall be located at 374 South Middletown Road, Nanuet, New York and is identified on the Orangetown Tax Map as Section 64.17, Block 1, Lot 78 in the CO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 2, 2020 at which time the Board made the determination hereinafter set forth.

Brian Quinn, Attorney, Joseph Thompson, Architect, and John Bartolatta, President, appeared and testified.

The following documents were presented:

1. Plans labeled "Nanuet Branch 374 N. Middletown Road " dated January 16, 2019 last revision date of 01/07/2020 signed and sealed by Thomas Jeffrey DeGraw, Architect. (4 pages).
2. Site Plan for Lale Realty LLC dated 11/13/2019 last revised 06/05/2020 signed and sealed by Jay A. Greenwell L.S.
3. A memorandum dated May 19, 2020 from Jane Slavin. RA, Director, OBZPAE.
4. Planning Board Decision #20-18 dated May 27, 2020 with a Neg Dec..
5. A letter dated July 23, 2020 from the Town of Clarkstown Planning Board signed by Gilbert J. Heim, Chairman.
6. A letter dated July 9, 2020 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
7. A no comment memo from Dyan Rajasingham, Engineer III Rockland County Highway Department.
8. An email from Dyan Rajasingham stating that the Rockland County Highway Department has no further comments dated June 30, 2020.
9. Nine pages of signs in the immediate CO District with more signage than the applicant is requesting.

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

Brian Quinn, Attorney, testified that Orange Bank & Trust would like to open a new branch in Peal River, across the street from the old Pfizer campus; that it is in the location of the previous Roosters café; that this is a CO zone and there are a number of other commercial structures in the area with larger signs that the bank is requesting; and that they would like to request an override for the letter from Rockland County Planning.

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Joseph Thompson, Architect, testified that they are proposing a reduction in signage from what presently exists on the site; that they would be removing the existing pylon sign and improving the façade of the building and adding signage to the building and in place for the pylon sign they are proposing a lower stone monument sign; that in context the neighboring car wash has 170 sq. ft. of signage; Roosters sign was 91.6 sq. ft.; Exxon has 286 sq. ft. of signage and they are reducing the signage by more than half; that aesthetically the improvements will not have any negative impact on the area and they need to appear before ACABOR after this hearing.

John Barolotta, President, thanked the Board and stated that working with Jay Greenwell, Joseph Thompson and Brian Quinn has made the process very efficient and pleasant.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that Since the Planning Board noticed its intent to declare itself Lead agency and distributed that notice of intention to all involved agencies, including the Zoning Board of Appeals who consented or did not object to the Planning Board acting as Lead Agency, pursuant to coordinated review under the State Environmental Quality Review Act Regulation § 617.6 (b) (3); and since the Planning Board conducted SEQRA reviews and on May 27, 2020 (as set forth in PB #20-18 Orange Bank & Trust Site Plan), rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use action (i.e. a “Negative Declaration” or “Neg Dec”), the Zoning Board of Appeals is bound by the Planning Board’s Neg Dec and the Zoning Board of Appeals cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b) (3) ; which motion was seconded by Mr. Bosco and carried as follows: Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Bosco, aye; and Ms. Castelli, aye.

Public Comment:

No public comment.

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

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

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

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FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested Section 3.11, Column 5 #6 sign area variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The requested signage although more than what is permitted in the CO District, is reasonable for this location on a busy road and will allow drivers time to see the entrance and exit for the proposed bank with plenty of time, without negatively impacted traffic flow.
2. The Board made a motion to override the disapproval (comment#1 Rockland County Department of Planning letter dated July 9, 2020) because the proposed location and size of the signs would allow for driver recognition of the bank without causing breaks to the traffic flow along the busy roadway. The municipal boundary with Clarkstown is 155 feet north of the site and is one of the reasons for the referral to the County for comments and the Town of Clarkstown deemed the matter for local determination by a unanimous vote of their Planning Board.
3. The requested Section 3.11, Column 5 #6 sign area variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The requested signage although more than what is permitted in the CO District, is reasonable for this location on a busy road and will allow drivers time to see the entrance and exit for the proposed bank with plenty of time, without negatively impacted traffic flow.
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 Section 3.11, Column 5,#6 sign area variance is not substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The requested signage although more than what is permitted in the CO District, is reasonable for this location on a busy road and will allow drivers time to see the entrance and exit for the proposed bank with plenty of time, without negatively impacted traffic flow.
6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Section 3.11, Column 5 #6 sign area 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.

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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 Section 3.11, Column 5 #6 sign area variance is APPROVED and to override the disapproval from Rockland County Department of Planning dated July 9, 2020; was presented and moved by Mr. Sullivan, 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 2, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
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