

MINUTES
ZONING BOARD OF APPEALS
October 16, 2024

MEMBERS PRESENT: MICHAEL BOSCO, CHAIRMAN
BILLY VALENTINE
PATRICIA CASTELLI
THOMAS QUINN
ANTHONY DEROBERTIS, ALTERNATE

ABSENT: ROBERT BONOMOLO, JR

ALSO, PRESENT: Denise Sullivan, Deputy Town Attorney
Katlyn Bettmann, Senior Clerk Typist
Anne Marie Ambrose, Official Stenographer

This meeting was called to order at 7: 05 P.M. by Chairman Bosco.
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:

BOERA 107 South Main Street Pearl River, New York 68.20 / 5 / 57; CO – zone	VARIANCES APPROVED WITH CONDITIONS, MODIFICATIONS & OVERRIDES	ZBA#24-48
GALLAGHER 43 West Lewis Avenue Pearl River, New York 68.12 / 1 / 43; RG - zone	CONTINUED	ZBA#24-49
JONES 221 Piermont Avenue South Nyack, New York 66.62 / 2 / 42; R-12 - zone	§ 6.1(c) VARIANCE APPROVED	ZBA#24-50
COLLINS 278 Piermont Avenue South Nyack, New York 66.70 / 1 / 12; RG-6 - zone	STRETCH CODE VARIANCE APPROVED	ZBA#24-51

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

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

OTHER BUSINESS:

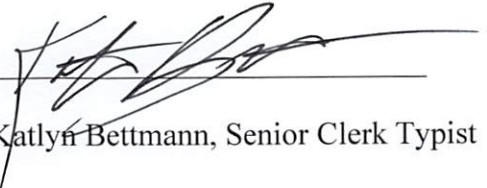
In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application: STAC Track and Field Site Plan, 175 NY-340, Sparkill, New York 74.16 / 1 / 2.1; R-40 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:35 P.M.

Dated: October 16, 2024

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By


Katlyn Bettmann, Senior Clerk Typist

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

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DECISION
SIDE YARD, TOTAL SIDE YARD, MAX HEIGHT, 9.2 BULK INCREASE VARIANCES
APPROVED, FAR REDUCED, 9.34 2ND TIME INCREASE & 9.34 PERCENTAGE
INCREASE MODIFIED WITH CONDITIONS AND OVERRIDES

To: Cathryn C Boera
107 S. Main Street
Pearl River, New York

ZBA #24-48
Date: October 16, 2024
Permit # BLDR-4510-24

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 24-48: Application of William Boera, for variances from Zoning Code (Chapter 43), CO District, Section 3.12, Group NN, Column 4 (floor area ratio: 20% permitted, with 34.5% proposed), Column 8 (side yard: 35' required, with 10' proposed), Column 9 (total side yard: 90' required, with 20' proposed), Column 12(maximum building height: 6"/ft (15.15') required, with 16.6'(5.5"/ft) proposed). Existing non-conforming (ENC) lot area, lot width: from Section 9.2(degree of non-conforming bulk not to be increased), from section 9.34 (non-conforming use may be increased 1 time, with 2nd time proposed), and from Section 9.34 (non-conforming use may be increased up to 50%, with 84% proposed) for a two-story addition with deck at the rear of the house. The premises are located at 107 S. Main Street, Pearl River, New York and identified on the Orangetown Tax Map as Section 68.20, Block 5, Lot 57 in the CO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, October 16, 2024 at which time the Board made the determination hereinafter set forth.

Cathryn Boera, resident and agent for the applicant, and Daniel Bachini, husband of Cathryn Boera and resident, appeared and testified.

The following documents were presented:

1. Architectural plans, Proposed Addition Bachini & Boera, with the most recent revision date of June 25, 2024 signed and sealed by Uzziah B. Cooper Jr., R.A. (4 pages).
2. Survey dated November 7, 2023 signed by Stephen F. Hoppe, .L.S..
3. Survey with the proposed work dated November 7, 2023 signed by Stephen F. Hoppe, .L.S..
4. A letter dated September 29, 2024 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated August 12, 2024 from Rockland County Drainage Agency signed by Liron Derguti, Engineer I.
6. An email from Orange and Rockland Utilities, Inc., from Alfred Gaddi, P.E., dated August 16, 2024.
7. A "Comments attached" from Rockland County Department of Planning dated August 13, 2024 signed by Jake Palant.
8. A letter dated October 16, 2024, from Rockland County Sewer District No. 1, signed by Nicholas King, Engineer I.
9. A letter dated October 15, 2024, from Ann Riordan, submitted by the Applicant at the ZBA meeting October 16, 2024.
10. A letter dated October 15, 2024, from Marion Nery, submitted by the Applicant at the ZBA meeting October 16, 2024.
11. A letter dated October 15, 2024, from Chester McGuire, submitted by the Applicant at the ZBA meeting October 16, 2024
12. A letter dated October 15, 2024, from Braunfotel & Frendel Atoorney at Law, signed by Keith Braunfotel submitted by the Applicant at the ZBA meeting October 16, 2024

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

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Cathryn Boera, resident and agent for the applicant, testified that the houses are approximately 100 years old; that the neighbors next door subdivided and sold the properties in 1980's and then this house was built; that her parents bought the property and built the home in 1981; that currently the house is a small two bedroom one-and-a-half-bathroom cape; that she lives there with her family and her Father; that her Mother passed away during covid and she would like to add on more space for her father on the first floor; that this is same structure since the house was built with the exception of the deck being done; that there are two small decks when you exit the home; that they have never moved since 1981 and have never put an addition on to this home or done any structural work; that to the side yard there is approximately ten (10') feet between the properties; that the houses are similar in that way, that they are all very close, so it is the driveway on one side and approximately ten (10') feet on the other side; that to the back of the property is USIS Corp approximately four stories tall; that to the right side facing South Main Street, that property goes all the way back to the Railroad; that next to the property is " B&B Auto"; that the sides and front are the same, the only thing changing is the back; that the height is also the same, however, it is currently a slope and will now be squaring the roof off and flattening out; that she has no issue in removing the existing sheds to reduce the floor area ratio variance; and that the French drains at the back are internal.

Chairman Bosco stated that the Applicant already has a use variance from 1981, he also stated that the existing sheds are over the square footage and do not meet the setbacks required.

Mr. Valentine stated that the floor area ratio is a concern with drainage, and asked if anything could be done for storm water runoff. He also stated that they will need to see zero runoff as part of the construction process

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Chairman Bosco 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: Chairman Bosco, aye; Ms. Castelli, aye; Mr. Valentine, aye; Mr. Quinn, aye; and Mr. DeRobertis, aye. Mr. Bonomolo was absent.

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.

Chairman Bosco made a motion to close the Public Hearing which motion was seconded by Mr. Valentine 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 total side yard, side yard, max height, 9.2 bulk, and 9.34 and modified floor area ratio variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions exist in the neighborhood.
2. The requested total side yard, side yard, max height, 9.2 bulk, and 9.34 and modified floor area ratio variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions exist 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 total side yard, side yard, max height, 9.2 bulk, and 9.34 and modified floor area ratio 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. Similar additions exist 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 improvement, 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.

Mr. Bosco made a motion to override comments #1, from the September 29, 2024 letter from Rockland County Department of Planning, signed by Douglas J. Schuetz, Acting Commissioner of Planning, as follows: comment #1 because the applicant has already been granted the use variance in 1981, and the applicant stated under oath that there has never been an addition on the home since 1981 when the house was built; which motion was seconded by Mr. Quinn and carried unanimously.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested total side yard, side yard, max height, 9.2 bulk, and 9.34 and modified floor area ratio variances are APPROVED; and FURTHER RESOLVED, to override comments #1, from the September 29, 2024 letter from Rockland County Department of Planning, signed by Douglas J. Schuetz, Acting Commissioner of Planning, as follows: comment #1 because the applicant has already been granted the use variance in 1981, and the applicant stated under oath that there has never been an addition on the home since 1981 when the house was built ; with the Specific Conditions (1) the bulk table on the survey by Stephen F. Hoppe, L.S. should be revised per Rockland County Planning letter dated September 9, 2024 # 5; that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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


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

The foregoing resolution to approve the application for the requested total side yard, side yard, max height, 9.2 bulk, and 9.34 and modified floor area ratio variances are APPROVED; and FURTHER RESOLVED, to override comments #1, from the September 29, 2024 letter from Rockland County Department of Planning, signed by Douglas J. Schuetz, Acting Commissioner of Planning, as follows: comment #1 because the applicant has already been granted the use variance in 1981, and the applicant stated under oath that there has never been an addition on the home since 1981 when the house was built; with the Specific Conditions (1) the bulk table on the survey by Stephen F. Hoppe, L.S. should be revised per Rockland County Planning letter dated September 9, 2024 # 5; was presented and moved by Chairman Bosco, seconded by Mr. Quinn and carried as follows: Chairman Bosco, aye; Ms. Castelli, aye; Mr. Valentine, aye; Mr. Quinn, aye; and Mr. DeRobertis, aye. Mr. Bonomolo was absent.

The Senior Clerk Typist 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: October 16, 2024

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Katlyn Beltmann
Senior Clerk Typist

DISTRIBUTION:

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

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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TOWN OF ORANGETOWN

DECISION

§ 6.1(c) VARIANCE APPROVED

To: Robert Silarski (Jones)
41 A North Broadway
Nyack, New York 10960

ZBA #24-50
Date: October 16, 2024
Permit # BLDR-5656-24

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#24-49: Application of Audra and Albert Jones, for variances from Zoning Code (Chapter 43), R-12 District, Section 6.1(c), (off street parking within a front yard either on a driveway or on a n “approved” stoned area), to enlarge an existing gravel driveway at a single-family dwelling. The premises are located at 221 Piermont Avenue, South Nyack, New York and identified on the Orangetown Tax Map as Section 66.62, Block 2, Lot 42 in the R-12 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, October 16, 2024 at which time the Board made the determination hereinafter set forth.

Robert Silarski, architect, and Joseph Rohal appeared and testified.

The following documents were presented:

1. Architectural plans, driveway expansion Jones residence, dated July 31, 2024, by Robert Silarski, R.A., (3 pages).
2. Survey dated March 1, 2022 signed and sealed by Anthony R. Celantano, P.L.S..
3. A project summary, dated July 31, 2024, from S& Co Architecture & Design.
4. A Short Environmental Assessment Form, signed by Robert Silarski, Architect, dated September, 6, 2024.
5. A letter from the homeowners, giving S & Co Architecture & Design authorization for this project, dated September 13, 2024.

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

Joseph Rohal, architect, testified that the applicants purchased this home in 2022 with their two daughters; that the driveway existed this way when they purchased the home; that for quality of life purposes the existing driveway is on the side yard; that the driveway on the side yard is about fifty (50’) feet from the home and slopes downward; that they have been utilizing this gravel driveway with the small children, carrying groceries, and day to day activities due to the hardship over the other driveway; that it has existed this way for at least twenty years; that they would like to put in drainage and Belgian block and make this a formal driveway; that they have put in an application with the Town of Orangetown Highway Department;

Robert Silarski, architect, testified that that the house has been sold twice in the last 6 years; that they have worked with the owners who’ve been there since the 1980s the driveways have existed this way since that time; that the other driveway slopes towards the Hudson river; that the variance requested is for the driveway in the front yard which is currently gravel; that currently the gravel driveway doesn’t have any drainage at all; that they have an existing condition and are proposing to expand that, contain it, add drainage and Belgian block; that they will be putting in drainage essentially creating a trench drain; that this will be stone with a base and a drainage system; that they are not aware of any neighbors having an issue with this proposal, and they have been notified;

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On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Chairman Bosco 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: Chairman Bosco, aye; Ms. Castelli, aye; Mr. Valentine, aye; Mr. Quinn, aye; and Mr. DeRobertis, aye. Mr. Bonomolo was absent.

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.

Chairman Bosco made a motion to close the Public Hearing which motion was seconded by Mr. Valentine 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 off-street parking variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar driveways exist in the neighborhood.
2. The requested off-street parking variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar driveways exist 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 off-street parking variance although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar driveways exist 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 improvement, 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 off-street parking 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.

The foregoing resolution to approve the application for the requested off-street parking variance is APPROVED; was presented and moved by Mr. Valentine, seconded by Ms. Castelli and carried as follows: Chairman Bosco, aye; Ms. Castelli, aye; Mr. Valentine, aye; Mr. Quinn, aye; and Mr. DeRobertis, aye. Mr. Bonomolo was absent.

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Jones
ZBA#24-50
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Permit # BLDR-5656-24

The Senior Clerk Typist 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: October 16, 2024

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Katlyn Bettmann
Senior Clerk Typist

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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TOWN CLERK'S OFFICE

DECISION
STRETCH CODE VARIANCE APPROVED

To: Robert Silarski (Collins)
41 A North Broadway
Nyack, New York 10960

ZBA #24-51
Date: October 16, 2024
Permit # BLDR-4639-24

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#24-50: Application of Samantha Collins, for variances from Zoning Code, RG-6 District, NYStretch Energy Code, Climate zone 5, (Fen U-Factor: 0.27 required, with 0.30 proposed) for the replacement of windows which require energy compliance at an existing single-family residence. The premises are located at 278 Piermont Avenue, South Nyack, New York and identified on the Orangetown Tax Map as Section 66.70, Block 1, Lot 12 in the RG-6 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, October 16, 2024 at which time the Board made the determination hereinafter set forth.

Robert Silarski, architect, and Joseph Rohal appeared and testified.

The following documents were presented:

1. Architectural plans, additions and renovations Collins residence, with the most recent revision date of June 27, 2024, by Robert Silarski, R.A., (4 pages).
2. A copy of the Andersen
3. A window order from Dykes Lumber, with the most recent date of August 29, 2024(14 pages).
4. A project summary, dated July 31, 2024, from S& Co Architecture & Design.
5. A letter from the homeowners, giving S & Co Architecture & Design authorization for this project, dated September 11, 2024.
6. A letter dated October 11, 2024 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
7. A "No future correspondence for this site should be sent to this agency. Plans reviewed and this agency does not have any further comments" from Veolia signed by Bill Prehoda dated October 10, 2024.
8. A letter dated October 16, 2024 from Rockland County Sewer District No. 1 signed by Nicholas King, Engineer I.

Chairman Bosco, made a motion to open the Public Hearing which motion was seconded by Mr. Valentine and carried unanimously.

Robert Silarski, architect, testified that this is approximately 27 windows in a historic house; that it was the house of Joseph Cornell; that he was a sculptor and artist of note throughout middle years in the twentieth century; that the house was purchased by the Collins and restored; that they agree with the adoption of the NYStretch energy code as required by the conservation code; that this was an honest error made by the vendor; that the drawings did call for a U-value of .27 in compliance with NYStretch energy code; that windows that had a U-value of .30 were delivered and subsequently installed; that they did approach the State about a variance, however, the State said this variance was not under their jurisdiction and referred them back to The Town of Orangetown; that previously existing were single pane windows; that the Contractor informs them that to remove and replace the windows will cost \$80,000 to \$100,000; that legal action would have to be taken by the Contractor against the Vendor because vendor was at fault; that in his opinion the difference in U-value is so small that the rest of the walls being uninsulated not worth considering;

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On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Chairman Bosco 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: Chairman Bosco, aye; Ms. Castelli, aye; Mr. Valentine, aye; Mr. Quinn, aye; and Mr. DeRobertis, aye. Mr. Bonomolo was absent.

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.

Chairman Bosco 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 stretch code variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The installed windows are improvement from what previously existed. The difference in U-Value is minor in comparison to cost to remove and replace the windows. This was not a self-created issue.
2. The requested stretch code variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The installed windows are improvement from what previously existed. The difference in U-Value is minor in comparison to cost to remove and replace the windows. This was not a self-created issue.
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 stretch code variance although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The installed windows are improvement from what previously existed. The difference in U-Value is minor in comparison to cost to remove and replace the windows. This was not a self-created issue.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvement, 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 stretch code 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.

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

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

The Senior Clerk Typist 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: October 16, 2024

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Katlyn Bettmann
Senior Clerk Typist

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

TOWN OF ORANGETOWN
2024 OCT 24 A 11:19
TOWN CLERK'S OFFICE