

MINUTES
ZONING BOARD OF APPEALS
November 20, 2024

MEMBERS PRESENT: MICHAEL BOSCO, CHAIRMAN
 ROBERT BONOMOLO, JR.
 PATRICIA CASTELLI
 ANTHONY DEROBERTIS, ALTERNATE

ABSENT: THOMAS QUINN
 BILLY VALENTINE

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: 00 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:

KNAPP / SHAFER 9 Mansfield Avenue South Nyack, New York 66.70 / 1 / 29; RG-6 - zone	SIDE YARD, TOTAL SIDE YARD § 9.2 VARIANCES APPROVED WITH CONDITION	ZBA#24-56
CARDENAS / CABRERA 128 Sergeant Amory Avenue Pearl River, New York 64.17 / 3 / 35; CO – zone	SIDE YARD, TOTAL SIDE YARD, FRONT YARD, § 9.2 & § 9.34 VARIANCES APPROVED WITH CONDITION	ZBA#24-57
PAUL MESIBOV TRUST 168 Washington Street Tappan, New York 77.11 / 1 / 50; R-15 – zone	CONTINUED	ZBA#24-58
WARD FAMILY TRUST/ MADELINE & MICHAEL WARD 234 Betsy Ross Drive Orangeburg, New York 73.16 / 2 / 42; R-22 - zone	CONTINUED	ZBA#24-59

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

TOWN CLERK'S OFFICE

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TOWN OF ORANGETOWN

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 9:05 P.M.

Dated: November 20, 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

TOWN OF ORANGETOWN
2024 NOV 26 A 10:33
TOWN CLERK'S OFFICE

DECISION

SIDE YARD, TOTAL SIDE YARD, AND SECTION 9.2 EXPANSION OF NON-CONFORMING BULK VARIANCES APPROVED WITH CONDITIONS AND OVERRIDES. UNDERSIZED LOT AKNOWLEDGED.

To: Christopher Shafer (Knapp/Shafer)
9 Mansfield Avenue
South Nyack, New York

ZBA #24-56
Date: November 20, 2024
Permit # BLDR-5911-24

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 24-56: Application of Christopher Shafer and Elizabeth Knapp, for variances from Zoning Code (Chapter 43), Attachment 19, RG-6 District, Use Type P, Side Yard:(12' required, with 7.4' proposed), Total Side Yard:(25' required, with 10' proposed), and § 9.2 Expansion of non-conforming bulk, for a two-story addition to an existing single-family residence. The premises are located at 9 Mansfield Avenue, South Nyack, New York and identified on the Orangetown Tax Map as Section 66.70, Block 1, Lot 29 in the RG-6 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, November 20, 2024 at which time the Board made the determination hereinafter set forth.

Christopher Shafer, and Elizabeth Knapp, Homeowners, appeared and testified.

The following documents were presented:

1. Site plans, based on a Survey for "Knapp & Shafer" dated September 4, 2018, signed and sealed by Harold, J. Goldstein, R.A. (1 page).
2. Architectural plans, for "Shafer residence" dated May 21, 2024, signed and sealed by Harold, J. Goldstein, R.A. (2 pages).
3. Survey for "Knapp & Shafer" dated September 4, 2018, signed and sealed by Anthony R. Celentano, P.L.S..
4. Updated site plan, based on a Survey for "Knapp & Shafer" revision date November 15, 2018, signed and sealed by Anthony R. Celentano, P.L.S. (1 page).
5. Computer generated pictures of the existing shed, (3 pages).
6. A letter received November 18, 2024 from Yaboo Fence Co., Carlos Marin.
7. An email from Jane Slavin, Director of O.B.Z.P.A.E., dated November 7, 2024.
8. A letter dated November 6, 2024 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.

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

Christopher Shafer, Homeowner, testified that last year their initial scope of work changed when their son fell down the basement stairs; that they would now like to renovate their kitchen; that this would involve shifting the stairs into the kitchen and bringing the basement stairs to code; that in order to preserve the workable kitchen area they are looking to square off the corner; that then they will be losing the shower in the downstairs bathroom, so they are adding a full bathroom upstairs; that in terms of the footprint they will only be adding twenty-five (25 S.F.) square feet onto the first floor; that the second floor was designed to cantilever out two (2') feet; and that this was designed to make it easier to work in the bathroom, while minimizing the change in the foot print of the house.

Elizabeth Knapp, Homeowners, testified that this is a narrow lot; that the house is over one-hundred (100) years old; that they share a driveway on this side of the house where they are squaring off the corner; that the bathroom that would be the powder room is a previous addition from a previous owner; that they will squaring off that corner to stay in line with the existing structure.

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TOWN OF ORANGETOWN

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; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. DeRobertis, aye. Mr. Valentine and Mr. Quinn were 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 side yard, total side yard, and § 9.2 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 side yard, total side yard, and § 9.2 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 side yard, total side yard, and § 9.2 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.

TOWN CLERK'S OFFICE

NOV 26 10 30 AM '24
TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested side yard, total side yard, and § 9.2 variances are APPROVED; and FURTHER RESOLVED, to override comments from the November 6, 2024 letter from Rockland County Department of Planning, signed by Douglas J. Schuetz, Acting Commissioner of Planning, comment #1 per the email received by Jane Slavin, Director of O.B.Z.P.A.E, “when the Town of Orangetown took over South Nyack(SN), the Town of Orangetown adopted Chapter 43, Article 18 and changed the critical environmental area designation... see new map adopted by the Town of Orangetown on 9/13/2022.”, comment #2 per the following condition; with the Specific Conditions (1) the Applicant has agreed to move the shed into compliance according to the town code for their district, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

TOWN CLERK'S OFFICE
2024 NOV 26 A 10:34
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard, total side yard, and § 9.2 variances are APPROVED; and FURTHER RESOLVED, to override comments from the November 6, 2024 letter from Rockland County Department of Planning, signed by Douglas J. Schuetz, Acting Commissioner of Planning, comment #1 per the email received by Jane Slavin, Director of O.B.Z.P.A.E, "when the Town of Orangetown took over South Nyack(SN), the Town of Orangetown adopted Chapter 43, Article 18 and changed the critical environmental area designation... see new map adopted by the Town of Orangetown on 9/13/2022."; comment #2 per the following condition; with the Specific Conditions (1) the Applicant has agreed to move the shed into compliance according to the town code for their district; was presented and moved by Mr. DeRobertis, seconded by Ms. Castelli and carried as follows: Chairman Bosco, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. DeRobertis, aye. Mr. Valentine and Mr. Quinn were 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: November 20, 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-Mike M.

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

TOWN OF ORANGETOWN
2024 NOV 26 A 10:34
TOWN CLERK'S OFFICE

DECISION

SIDE YARD, FRONT YARD, TOTAL SIDE YARD, EXPANSION OF NON-CONFORMING BULK, EXPANSION OF NON-CONFORMING USE VARIANCE APPROVED WITH CONDITIONS UNDERSIZED LOT AKNOWLEDGED

To: Jaime Cardenas Cabrera
128 Sgt Amory Avenue
Pearl River, New York

ZBA #24-57
Date: November 20, 2024
Permit # BLDR-5131-24

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 24-57: Application of Jamie Cardenas and Rosa Cabrera, for variances from Zoning Code (Chapter 43), CO District, Section 3.12, Group NN, Column 9 (side yard: 35' required, with 14.6' and 15' proposed), Column 10 (total side yard: 90' required, with 29.6' proposed), from Section 9.2 (expansion of non-conforming bulk), and from section 9.34 (expansion of non-conforming use) to legalize existing decks at the rear of a single family dwelling, as well as install new replacement windows, a portico, and a driveway. The premises are located at 128 Sgt. Amory Avenue, Pearl River, New York and identified on the Orangetown Tax Map as Section 64.17, Block 3, Lot 35 in the CO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, November 20, 2024 at which time the Board made the determination hereinafter set forth.

Jaime Cardenas Cabrera, homeowner, and Caroline Cardenas Cabrera, Daughter, appeared and testified.

The following documents were presented:

1. Site plans, Plan, Cardenas Cabrera Residence dated September 16, 2024 signed and sealed by Paul Gdanski, PE, PLLC, AIA. (1 page)
2. Floor plan & detail, Cardenas Cabrera Residence dated September 16, 2024 signed and sealed by Paul Gdanski, PE, PLLC, AIA. (1 page)
3. As built & alterations, Cardenas Cabrera Residence with the most recent revision date of April 12, 2024 signed and sealed by Jorge L. Lopez, R.A., A.I.A., P.C. (2 pages).
4. Survey dates June 26, 2024, by Anthony R. Celentano, P.E.
5. Lowes custom window order (4 pages).
6. A letter dated November 7, 2024 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.

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

Jaime Cardenas Cabrera, homeowner, testified that his project began with updating a portico; that he then put a deck over an existing concrete slab; that he wanted to put in new windows and enlarge the size of the driveway area, not the entrance to the drive so that he can make room for a boat that he wants to get; that the driveway is indicated on the plans by a dotted line, and adds to the back of the existing driveway going alongside the house; that the portico is existing and the roof was added; that the porch was existing prior to him residing at the home and has two steps off of the porch; that the house has been there since 1952 and he has owned it since 2017; that the shed on the property is plastic and can be moved into compliance; that behind the house there is a temporary tent filled with garage belongings that will be cleaned up;

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; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. DeRobertis, aye. Mr. Valentine and Mr. Quinn were absent.

TOWN OF ORANGETOWN
NOV 25 10:34 AM '24

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 side yard, front yard, total side yard, § 9.2, and § 9.34 variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar decks, porticos, and driveways exist in the area.
2. The requested side yard, front yard, total side yard, § 9.2, and § 9.34 variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar decks, porticos, and driveways exist in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested side yard, front yard, total side yard, § 9.2, and § 9.34 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 decks, porticos, and driveways exist in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or 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.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested side yard, front yard, total side yard, § 9.2, and § 9.34 variances are APPROVED; with the Specific Conditions (1) that the bulk table will be updated to denote all variances requested beside existing conditions, and will add the front yard measurement of nineteen point four (19.4') feet, and to show both side yard measurements; 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.

TOWN OF ORANGETOWN
NOV 26 10:34 AM '24

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 side yard, total side yard, § 9.2, and § 9.34 variances are APPROVED; with the Specific Conditions (1) that the bulk table will be updated to denote all variances requested beside existing conditions, and will add the front yard measurement of nineteen point four (19.4') feet, and to show both side yard measurements was presented and moved by Mr. Bonomolo, seconded by Ms. Castelli and carried as follows: Chairman Bosco, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. DeRobertis, aye. Mr. Valentine and Mr. Quinn were absent.

TOWN CLERK'S OFFICE
MAY 10 2024
TOWN OF ORANGETOWN

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: November 20, 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-Ken L

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

TOWN OF ORANGETOWN
2024 NOV 26 A 10:34
TOWN CLERK'S OFFICE