

MINUTES
ZONING BOARD OF APPEALS
February 19, 2020

MEMBERS PRESENT: MICHAEL BOSCO
THOMAS QUINN
PATRICIA CASTELLI, ACTING CHAIR
ROB BONOMOLO, JR.
BULLY VALENTINE

ABSENT: DAN SULLIVAN

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

This meeting was called to order at 7: 00 P.M. by Ms. Castelli, Acting Chair.
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:

GYIMESI DRIVEWAY 814 Route 9W Upper Grandview, New York 75.05 / 1 / 5; R-22 zone	SECTION 6.332 DRIVEWAY GRADE VARIANCE APPROVED	ZBA#20-14
CECUNJANIN 191 Liberty Road Tappan, NY 77.05 / 3 / 58; R-15 zone	CONTINUED	ZBA#20-15
MILLS 30 Klee Lane Blauvelt, NY 70.18 / 1 / 8; R-15 zone	FRONT YARD VARIANCE APPROVED	ZBA#20-16

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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: SQ Properties Site Plan, 8 Olympic Drive, Orangeburg, NY, 73.15 / 1 / 16; LIO zone; BCH Realty LLC- Concaro, LLC: Parking Site Plan Review, 20 Mountainview Avenue, Orangeburg, NY, 74.07 / 1 / 27; CC zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:00 P.M.

Dated: February 19, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By *Deborah Arbolino*

Deborah Arbolino, Administrative Aide

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

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DECISION

SECTION 6.332 DRIVEWAY GRADE VARIANCE APPROVED

To: Jorel Vaccaro (Gyimesi)
Kryptom Engineering
527 West 48th Street
New York, New York 10036

ZBA #20-14
Date: February 19, 2020
Permit #49304

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-14: Application of Aladar Gyimesi for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-22 District, Group I, Section 6.332 (Driveway Grade: 10% permitted, 26.9% existing, 16.7% proposed) for an existing driveway alteration at an existing single-family residence. The premises are located at 814 Route 9W, Nyack, New York and is identified on the Orangetown Tax Map as Section 75.05, Block 1, Lot 5 in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 19, 2020 at which time the Board made the determination hereinafter set forth.

Jorel Vaccaro, P.E. appeared and testified.

The following documents were presented:

1. Plans labeled " 814 Route 9W, Nyack NY" dated November 27, 2019 signed and sealed by Jorel J. Vaccaro, P.E. (5 pages)
2. Survey dated February 19, 2019 signed and sealed by Robert E. Sorace, PLS.
3. A letter dated January 23, 2020 from the "Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A no comment form from Rockland County Highway Department signed by Dyan Rajasingham, P.E., dated 01/14/2020.

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

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

Jorel Vaccaro, Engineer for the project, testified that the application started out as a new septic system; that the applicant realized that the driveway was going to get a lot of wear during the work for the septic and decided to try to modify the driveway slope at the same time since the driveway would need repair work done anyway; that they are also stretching out the lower

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portion of the driveway and reconfiguring the bottom portion with trench drains going into the existing state drainage system; and the original grade in this area was 26% and they are reducing it to 16.7%; and that there is a little more impervious area.

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.

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested driveway grade variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Almost every house in the neighborhood has been granted a variance for the slope of their driveway; and the proposal is actually improving the grade.
2. The requested driveway grade variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Almost every house in the neighborhood has been granted a variance for the slope of their driveway; and the proposal is actually improving the grade.
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 driveway grade variance, although somewhat substantial, afford 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. Almost every house in the neighborhood has been granted a variance for the slope of their driveway; and the proposal is actually improving the grade.

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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.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Section 6.332 driveway slope 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 Section 6.332 Driveway Slope variance is APPROVED; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Bonomolo, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

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

DATED: February 19, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

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DECISION

FRONT YARD VARIANCE APPROVED

To: Michael and Stephanie Mills
30 Klee Lane
Blauvelt, New York 10913

ZBA #20-16
Date: February 19, 2020
Permit #49641

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-16: Application of Michael and Stephanie Mills for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 8 (Front Yard: 30' required, 20' proposed) for an in-ground pool at an existing single-family residence. The premises are located at 30 Klee Lane, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 70.18, Block 1, Lot 8 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 19, 2020 at which time the Board made the determination hereinafter set forth.

Michael and Stephanie Mills appeared and testified.

The following documents were presented:

1. Survey dated September 21, 2012 signed and sealed by Robert E. Sorace, PLS..
2. Copy of the survey with title block removed and proposed pool drawn on it by Michaels Mills dated 1/10/2020.
3. A letter dated January 27, 2020 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated February 13, 2020 from the Rockland County Department of Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
5. A letter dated February 7, 2020 from the Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
6. A sign off sheet dated 2/13/ 2020 from Rockland County Department of Health and Rockland County Highway Department dated 01/17/2020.

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

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

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Michael Mills testified that his property has two front yards; that the area that he is proposing to install the pool is flat and the pool installation would be relatively simple in that section of the yard; that although the yard is labeled a front yard it is really their side yard; that the portion of the property on the other side of the house is not flat and because of its grade a pool being installed there would be cost prohibitive; that they would need all kinds of retaining walls and that they would not be able to afford it; and that they have three children aged 3, 6 and 7 and they have owned the house for eight years.

Public Comment:

No public comment

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property has two front yards and the proposed location is easily accessible from the house. The section of the yard that is in the rear of the house has a steep grade and would need retaining walls in order to construct a pool there.
2. The requested front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property has two front yards and the proposed location is easily accessible from the house. The section of the yard that is in the rear of the house has a steep grade and would need retaining walls in order to construct a pool there.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested front yard variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The property has two front yards and

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the proposed location is easily accessible from the house. The section of the yard that is in the rear of the house has a steep grade and would need retaining walls in order to construct a pool there.

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.

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

General Conditions:

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

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

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

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

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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 front yard variance is APPROVED; was presented and moved by Ms. Castelli, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

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

DATED: February 19, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

TOWN CLERK
HIGHWAY DEPARTMENT
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FILE,ZBA, PB
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