

MINUTES  
ZONING BOARD OF APPEALS  
JULY 10, 2019

MEMBERS PRESENT: DAN SULLIVAN  
THOMAS QUINN  
MICHAEL BOSCO  
JOAN SALOMON

ABSENT: PATRICIA CASTELLI,  
LEONARD FEROLDI, ALTERNATE

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 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

CONTINUED ITEM:

SEVENTH DAY ADVENTIST CHURCH SIGN 210 Old Middletown Road Pearl River, New York 69.09 / 2 / 52; R-15 zone	POSTPONED TILL SEPTEMBER 4, 2019	ZBA#19-47
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NEW ITEMS:

HEAVEN TOO TRUST 40 Washington Spring Road Palisades, NY 78.19 / 1 / 13; R-22 zone	FENCE HEIGHT APPROVED	ZBA#19-61
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DOMITROVITS 577 Route 340 Sparkill, New York 78.09 / 1 / 9; R-15 zone	FLOOR AREA RATIO, SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#19-62
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ORANGEBURG CVS SIGNS 1-45 Orangeburg Road Orangeburg, NY 74.10 / 1 / 67; CS zone	SIGN VARIANCES APPROVED	ZBA#19-63
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TOWN OF ORANGETOWN  
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TOWN CLERK'S OFFICE

O'KELLY  
82 Liberty Road  
Tappan, NY  
77.09/ 1 / 12; R-15 zone

FLOOR AREA RATIO  
VARIANCE APPROVED

ZBA#19-64

ANSCHICK POOL  
323 Ehrhardt Road  
Pearl River, NY  
69.05 / 4 / 13; R-15 zone

SIDE YARD VARIANCE  
APPROVED

ZBA#19-65

PRESTIGE AUTO  
40 West Washington Avenue  
Pearl River, NY  
68.16 / 1 / 13; CC zone

CONTINUED FOR A  
SPECIAL PERMIT REQUEST

ZBA#19-66

RICCI  
44 Lester Drive  
Orangeburg, NY  
74.13 / 3 / 32; R-15 zone

SIDE YARD VARIANCE  
APPROVED UNDERSIZE LOT  
ACKNOWLEDGED

ZBA#19-67

BUCKO  
28 Brown Drive  
Pearl River, NY  
69.05 / 3 / 81; R-15 zone

FRONT YARD AND REAR  
YARD VARIANCES APPROVED

ZBA#19-68

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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: Kolb Subaru Sign Location Plan; 582 Route 303, Blauvelt, NY, 70. 14 / 4 / 12; CC zone; Pole Bard Site Plan, Amendment to #18-35, Preliminary Site Plan Approval, dated September 12, 2018 , 337-339 Blaisdell Road, Orangeburg, NY, 76.08 / 1 / 3; LIO 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 8:45 P.M.

Dated: July 10, 2019

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  
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TOWN CLERK'S OFFICE

DECISION

**SECTION 5.225 & 5.226 FENCE HEIGHT VARIANCES APPROVED**

To: Margaret Fowler (Heaven Too Trust)  
500 North Broadway  
Nyack, New York 10960

ZBA #19-61  
Date: July 10, 2019  
Permit #48530

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-61: Application of Heaven Too Trust for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Section 5.225 (Fence not over 30" in height within triangular area prescribed by connecting lines 35' from corner: 72" proposed) and from Section 5.226 (4 1/2' fence permitted in front yard: 6' fence proposed) to replace an existing 6' fence at an existing single-family residence. The property is located at 40 Washington Spring Road, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.19, Block 1, Lot 13; in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 10, 2019 at which time the Board made the determination hereinafter set forth.

Margaret Fowler, Architect, and Seth Glasser, Contractor, appeared and testified.

The following documents were presented:

1. Site plan labeled "Fence Site Plan Existing Conditions Site Plan" showing the location of the fence dated January 31, 2019 signed and sealed by Steven Collazuol, P.E. & L.S.

Mr. Sullivan, Chairman, 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, 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 Mr. Quinn and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye. Mr. Feroldi and Ms. Castelli were absent.

Margaret Fowler, Architect, submitted pictures of the existing fence and its location and testified that they are replacing the exiting fence and extending it into the rear of the property, which doesn't require a variance; that the fence is set back about 12' from the street line and it is at much higher grade than the existing street; that it will not interfere with site distance on the street because of the change in grade and the property is located on a dead end street with about ten residents.

Seth Glasser, Contractor, testified that he has been doing work in the area for many years and that the fence has been there since at least 1970.

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Public Comment:

No public comment

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Mr. Bosco 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 fence height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. There has been a six-foot fence on this property for many years without incident and the property is much higher than the grade of the road, so the fence will not interfere with sight distance and the road is not heavily traveled since it is a dead end street.
2. The requested front yard fence height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There has been a six-foot fence on this property for many years without incident and the property is much higher than the grade of the road, so the fence will not interfere with sight distance and the road is not heavily traveled since it is a dead end street.
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 fence height 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. There has been a six-foot fence on this property for many years without incident and the property is much higher than the grade of the road, so the fence will not interfere with sight distance and the road is not heavily traveled since it is a dead end street.

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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 front yard fence height variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

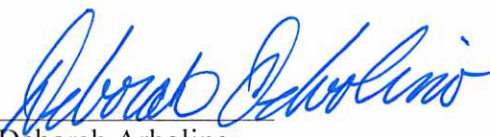
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The foregoing resolution to approve the application for the requested front yard fence height variance is APPROVED; was presented and moved by Ms. Salomon, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye. Ms. Castelli and Mr. Feroldi were 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: July 10, 2019

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

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DECISION

**FLOOR AREA RATIO, SIDE YARD, AND TOTAL SIDE YARD VARIANCES  
APPROVED SUBJECT TO CONDITION**

To: Brian and Lauren Domitrovits  
577 Route 340  
Sparkill, New York 10976

ZBA #19-62  
Date: July 10, 2019  
Permit #48704

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-62: Application of Brian and Lauren Domitrovits for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .235 proposed), 9 (Side Yard: 20' required, 13.1' proposed) and 10 (Total Side Yard: 50' required, 36' proposed) for a garage and second story addition to an existing single-family residence. The premises are located at 577 Route 340, Sparkill, New York and is identified on the Orangetown Tax Map as Section 78.09, Block 1, Lot 9 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 10, 2019 at which time the Board made the determination hereinafter set forth.

Lauren Domitrovits and Mike McNally, Contractor appeared and testified.

The following documents were presented:

1. Site Plan based on Land Survey for "Domitrovits" dated 5/5/2014 By Robert Sorace, L.S.
2. Bulk table signed and sealed by Harold J. Goldstein Architect.
3. Elevations for "Domitrovits Residence Two-Story Addition" dated March 31, 2019 not signed or sealed by Harry J. Goldstein, Architect.
4. A letter dated June 25, 2019 from the Rockland County Drainage Agency signed by Vincent Altieri, Executive Director.
5. A letter dated July 2, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
6. A letter dated June 4, 2019 from the Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
7. A letter dated June 7, 2019 from the Rockland County Department of Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.

Mr. Sullivan, Chairman, 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, 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 Mr. Quinn and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; and Mr. Quinn, aye. Mr. Feroldi and Ms. Castelli were absent.

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Mike McNally, contractor testified that he did not know how to prepare a case for the variances in this incident because the need is related to accessibility for Lauren and Brian's son; that they are proposing to add a garage with an elevator to the addition above the garage, which will be a bedroom and bathroom that is handicap accessible for their eight year old son.

Lauren Domitrovits testified that her son has AT which is a rare genetic disease that has already confined him to a wheelchair and it will get progressively worse; and that they need to accommodate his needs.

Public Comment:

No public comment

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Mr. Bosco 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, side yard and total side yard variances 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, side yard and total side yard variances 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 variances.
4. The requested floor area ratio, side yard and total side yard variances, 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.

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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 floor area ratio, side yard and total side yard variances are APPROVED; with the Specific Condition that the applicant address the concerns of the Rockland County Drainage Agency (June 25, 2019 letter signed by Vincent Altieri) and if a permit is necessary, obtain one; 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, side yard and total side yard variances are APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Salomon, aye. Ms. Castelli and Mr. Feroldi were 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: July 10, 2019

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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TOWN CLERK'S OFFICE

DECISION

**SECTION 3.11, COLUMN 5, PARAGRAPH 6 SIGN SIZE VARIANCE APPROVED**

To: Bill Hellmann (Orangeburg CVS)  
319 Elaines Court  
Dodgeville, WI 53533

ZBA #19-63  
Date: July 10, 2019  
Permit #48587

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-63: Application of Orangeburg CVS for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, CS District, Section 3.11, Column 5 General Accessory Uses, Paragraph 6 ( sign not to exceed 15% of wall area, and in no event, not over 80 sq. ft., 40 sq. ft. per wall, 350.89 sq. ft. total signage proposed with 83.5 sq. ft. approved 2/5/2003 (ZBA# 03-14): 267.39 additional sq. ft. proposed for window signs at the CVS located at 1-45 Orangeburg Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.10, Block 1, Lot 67; in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 10, 2019 at which time the Board made the determination hereinafter set forth.

Riccardo Cervini appeared and testified.

The following documents were presented:

1. Plans labeled "Store Windows Graphic Program" not to scale, by Pratt visual solutions ( 4 pages).
2. A letter dated June 26, 2019 from the Rockland County department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A sign off with no comments from the South Orangetown School District, dated 5/21/2019.
4. Nine color pictures of the building from different locations.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Salomon 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 seeks area or bulk variances for construction or expansion of primary, or accessory or appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls; this application is exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9); which does not require SEQRA environmental review. The motion was seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; and Mr. Quinn, aye. Mr. Feroldi and Ms. Castelli were absent.

Riccardo Cervino submitted nine color pictures of the site from different locations; and testified that he is aware of the letter from the County denying the requested sign variance; that he also understands that the County usually denies all requests for sign variances; that the CVS at this location is set back from Orangeburg Road approximately 200' and it is even further from Dutch

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Hill Road; that it is not the kind of sign that would interfere with traffic or take someone's attention away from the road, that it is a corporate design that covers the lower portion of the windows so that shelving can be placed there and items for sale can be displayed within the store without looking messy outside the store.

Public Comment:

No public comment

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Mr. Bosco 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 sign size variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The application for the window decals in this particular store will not interfere with traffic or distract motorists because the store is set back from the roads by a minimum of 200 feet. The Board determined that the majority of the window decals were designs and did not advertise the business.
2. The requested sign size variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The application for the window decals in this particular store will not interfere with traffic or distract motorists because the store is set back from the roads by a minimum of 200 feet. The Board determined that the majority of the window decals were designs and did not advertise the business.
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 sign size 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 application for the window decals in this particular store will not interfere with traffic or distract motorists because the store is set back from the roads by a minimum of 200 feet. The Board determined that the majority of the window decals were designs and did not advertise the business.

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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.

Mr. Sullivan made a motion to over-ride the Rockland County Department of Planning letter dated June 26, 2019 because this store's location is set back a minimum of 200' from the road and the store is at a lower elevation than the road, so these window decals will not distract drivers. The majority of the decals proposed for the windows do not advertise the store or any items for sale within the store, they are geometric designs that permit display items to be shown in front of them within the store, without looking messy from outside the store; the motion was seconded by Joan Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye. Ms. Castelli and Mr. Feroldi were absent.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested sign size 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 sign variance is APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye. Ms. Castelli and Mr. Feroldi were 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: July 10, 2019

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  
2019 JUL 17 P 1:02  
TOWN OF ORANGETOWN

DECISION

**FLOOR AREA RATIO VARIANCE APPROVED**

To: Michael and Anne O’Kelly  
82 Liberty Road  
Tappan, New York 10983

ZBA #19-64  
Date: July 10, 2019  
Permit #48613

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-64: Application of Michael and Anne O’Kelly for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 4 (Floor Area Ratio: .20 permitted, .2582 existing .2882 proposed) for an addition to an existing single-family residence. The premises are located at 82 Liberty Road, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.09, Block 1, Lot 12 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 10, 2019 at which time the Board made the determination hereinafter set forth.

Michael and Anne O’Kelly appeared and testified.

The following documents were presented:

1. Survey labeled “ Survey for O’Kelly” dated October 11, 2010 by Anthony R. Celentano, P.L.S. copy not sealed.
2. Architectural drawings labeled “Family room renovations The O’Kelly Residence signed and sealed by Richard Bouchard, Architect. (2pages)

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Salomon 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. Bosco and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; and Mr. Quinn, aye. Mr. Feroldi and Ms. Castelli were absent.

Michael O’Kelly testified that they would like to remove the existing deck and to remove and rebuild a room at the back of the house to be code compliant; that the original structure was probably built 40 years ago.

Public Comment:

No public comment

TOWN OF ORANGETOWN  
2019 JUL 17 P 1:02  
TOWN CLERK'S OFFICE



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. 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 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 area.
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 area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested floor area ratio variance, 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. Similar additions have been constructed 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 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.

TOWN OF ORANGETOWN  
2019 JUL 17 P 1:02  
TOWN CLERK'S OFFICE

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

General Conditions:

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

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

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

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

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

TOWN CLERK'S OFFICE  
2019 JUL 17 P 1:03  
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested floor area ratio 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. Sullivan, aye; and Ms. Salomon, aye. Ms. Castelli and Mr. Feroldi were 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: July 10, 2019

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN  
2019 JUL 17 P 1:03  
TOWN CLERK'S OFFICE

DECISION

**SIDE YARD VARIANCE APPROVED**

To: Robert Anschick  
323 Ehrhardt Road  
Pearl River, New York 10965

ZBA #19-65  
Date: July 10, 2019  
Permit #48867

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-65: Application of Robert and Margaret Anschick for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 9 (Side Yard: 20' required, 12' proposed) to install an above-ground pool at an existing single-family residence. The premises are located at 323 Ehrhardt Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.05, Block 4, Lot 13 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 10, 2019 at which time the Board made the determination hereinafter set forth.

Robert and Margaret Anschick appeared and testified.

The following documents were presented:

1. Survey with the pool shown on it signed and sealed by Robert Rahnefeld dated April 30, 2019.
2. Westrock add with pictures of the Belize 52" pool .

Mr. Sullivan, Chairman, 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, 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 Mr. Bosco and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; and Mr. Quinn, aye. Mr. Feroldi and Ms. Castelli were absent.

Robert Anschick testified that he has owned his house for 48 years and for the last 38 years he has had an above ground pool in this location; the first pool lasted 28 years; the second pool was replaced ten years ago and now it needs to be replaced again; that he is going to have it installed in the same location and upgrade the electric to the current code; and that he has a corner property with two front yards and this is the best location for the pool.

Public Comment:

No public comment

TOWN OF ORANGETOWN  
2019 JUL 17 P 1:03  
TOWN CLERK'S OFFICE

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. 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 side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has two front yards and this is the only place on the property to place the above ground pool. Testimony states that the pool has existed in this location for the last 38 years without incident.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has two front yards and this is the only place on the property to place the above ground pool.
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 side 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 applicant has two front yards and this is the only place on the property to place the above ground pool.
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.

TOWN OF ORANGETOWN  
2019 JUL 17 P 1:03  
TOWN CLERK'S OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested side yard 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.

TOWN OF ORANGETOWN  
2019 JUL 17 P 1:03  
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested side yard variance is APPROVED; was presented and moved by Ms. Salomon, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Salomon, aye. Ms. Castelli and Mr. Feroldi were 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: July 10, 2019

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 OF ORANGETOWN  
2019 JUL 17 P 1:03  
TOWN CLERK'S OFFICE

DECISION

**UNDERSIZE LOT ACKNOWLEDGED: SIDE YARD VARIANCE APPROVED**

To: Kier Levesque (Ricci)  
49 Third Avenue  
Nyack, New York 10960

ZBA #19-67  
Date: July 10, 2019  
Permit # 48853

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-67: Application of Anthony Ricci for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 9 (Side Yard: 15' required, 10' proposed) ( Section 5.21(c) applies Undersized lot) for a deck at an existing single-family residence. The premises are located at 44 Lester Drive, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.13, Block 3, Lot 32 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 10, 2019 at which time the Board made the determination hereinafter set forth.

Anthony Ricci and Kier Levesque, Architect, appeared and testified.

The following documents were presented:

1. Survey dated April 7, 1965 by A.R. Vogt II.
2. Architectural plans labeled "Ricci Deck Addition" dated May 2, 2019 with the latest revision date of May 16, 2019 signed and sealed by Kier B. Levesque, Architect.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Salomon 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. Salomon and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; and Mr. Quinn, aye. Mr. Feroldi and Ms. Castelli were absent.

Kier Levesque, Architect, testified that the lot is undersized and the existing ten (10') foot side yard and is not conforming and the new deck will be less non-conforming than the existing house; and that they are requesting an eleven (11') foot set back from the side yard and that the existing side yard on the northwest side is ten (10') feet.

Public Comment:

No public comment

TOWN OF ORANGETOWN  
2019 JUL 17 P 1:03  
TOWN CLERK'S OFFICE



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. 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 side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the undersized lot and there is an existing ten foot side yard and the proposed deck will be set back eleven (11') feet from the property line.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged the undersized lot and there is an existing ten foot side yard and the proposed deck will be set back eleven (11') feet from the property line.
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 side 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 Board acknowledged the undersized lot and there is an existing ten foot side yard and the proposed deck will be set back eleven (11') feet from the property line.
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.

TOWN CLERK'S OFFICE  
2019 JUL 17 P 1:03  
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 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.


TOWN OF ORANGETOWN  
2019 JUL 17 P 1:03  
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested side yard variance is APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Salomon, aye. Ms. Castelli and Mr. Feroldi were 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: July 10, 2019

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN  
2019 JUL 17 P 1:03  
TOWN CLERK'S OFFICE

DECISION

**FRONT YARD AND REAR YARD VARIANCES APPROVED**

To: Megan Bucko  
28 Brown Drive  
Pearl River, New York 10965

ZBA #19-68  
Date: July 10, 2019  
Permit #48864

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-68: Application of Megan Bucko for variances 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, 25.5 & 26.5 existing, 16' proposed) and 11 (Rear Yard: 35' required, 19.5' existing pre-existing non-conforming) for a deck at an existing single-family residence. The premises are located at 28 Brown Drive, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.05, Block 3, Lot 81 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 10, 2019 at which time the Board made the determination hereinafter set forth.

Megan Bucko appeared and testified.

The following documents were presented:

1. Architectural plan labeled " Bucko Residence Dormer Addition" signed and sealed by Harold J. Goldstein, Architect dated April 19, 2018 with revised bulk regulation table, site plan, and footing plan, dated April 10, 2018 with the latest revision dated of 6/6/2019 also signed and sealed by Harry Goldstein, Architect.
2. One letter from an abutting property owner in support of the application.

Mr. Sullivan, Chairman, 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, 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. Salomon and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; and Mr. Quinn, aye. Mr. Feroldi and Ms. Castelli were absent.

Megan Bucko testified that her house is on Brown Drive, that she applied for a permit for the second floor addition and when the Inspector came out he noticed that the existing deck needed a variance; that deck was there when she purchased the property and her property has two front yards because there is an unimproved street on the southern side of the house and that is where she needs the front yard variance for the proposed deck; that the rear yard variance is being requested for an existing condition that is not being changed; that there is no street there but it does exist on paper, that this is the logical place for the deck because it is off of her kitchen.

TOWN CLERK'S OFFICE

2019 JUL 17 P 1:03

TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Mr. 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 and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The requested rear yard is for an existing condition that is not being changed and the proposed front yard is for the construction of the deck which is adjacent to the paper street located at the southerly border of the property. The neighbor closest to the proposed deck construction gave a letter of support for the project.
2. The requested front yard and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The requested rear yard is for an existing condition that is not being changed and the proposed front yard is for the construction of the deck which is adjacent to the paper street located at the southerly border of the property. The neighbor closest to the proposed deck construction gave a letter of support for the project.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested front yard and rear yard variances, 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 requested rear yard is for an existing condition that is not being changed and the proposed front yard is for the construction of the deck which is adjacent to the paper street located at the southerly border of the property. The neighbor closest to the proposed deck construction gave a letter of support for the project.

TOWN CLERK'S OFFICE  
2019 JUL 17 P 1:03  
TOWN OF ORANGETOWN

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 and rear yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

TOWN CLERK'S OFFICE  
2019 JUL 17 P 1:03  
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested front yard and rear yard variances are APPROVED; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Salomon, aye. Ms. Castelli and Mr. Feroldi were 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: July 10, 2019

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN  
2019 JUL 17 P 1:03  
TOWN CLERK'S OFFICE