

MINUTES  
ZONING BOARD OF APPEALS  
July 18, 2018

MEMBERS PRESENT: DAN SULLIVAN  
THOMAS QUINN  
JOAN SALOMON  
MICHAEL BOSCO  
LEONARD FEROLDI, ALTERNATE

ABSENT: PATRICIA CASTELLI,

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

This meeting was called to order at 7: 00 P.M. by Mr. Sullivan, Chairman.  
Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

KUKLA 14 Fern Oval Orangeburg, NY 74.09 / 2 / 23; RG zone	FLOOR AREA RATIO VARIANCE APPROVED EXISTING SITE PLAN ACCEPTABLE	ZBA#18-43
GALLAGHER 45 West Nauraushaun Avenue Pearl River, NY 69.18 / 3 / 47; R-15 zone	FLOOR AREA RATIO VARIANCE AND §5.227 ACCESSORY DISTANCE SIDE YARD VARIANCE APPROVED	ZBA#18-44
FOGARTY 4 Theis Lane Blauvelt, NY 65.17 / 1 / 37; R-40 zone	REAR YARD VARIANCE AND §5.153 ACCESSORY STRUCTURE DISTANCE TO PRINCIPAL BUILDING VARIANCES APPROVED EXISTING SITE PLAN ACCEPTABLE	ZBA#18-45
ROCKLAND HOSPITAL GUILD 2 Irvings Way Orangeburg, NY 73.12 / 1 / 2.2; R-80 zone	PERFORMACE STANDARDS FOR 3 EMERGENCY GENERATORS APPROVED	ZBA#18-46

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AJ'S CATERING 15-17 North Main Street Pearl River, NY 68.16 / 1 / 19; CS zone	OFF STREET PARKING VARIANCE APPROVED	ZBA#18-47
BARAK 136 Washington Spring Road Palisades, NY 78.18 / 1 / 33; R-40 zone	FRONT YARD VARIANCE APPROVED UNDERSIZE LOT ACKNOWLEDGED	ZBA#18-48
HECK 122 Duryea Lane Nanuet, NY 74.13 / 3 / 80; RG zone	REAR YARD VARIANCE APPROVED	ZBA#18-49
MAGEE 243 Edsall Terrace Pearl River, NY 69.14 / 3 / 34; R-15	SIDE YARD VARIANCE APPROVED §5.227 ACCESSORY STRUCTURE DISTANCE TO REAR YARD APPROVED	ZBA#18-50

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 8:40 P.M.

Dated: July 18, 2018

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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DECISION

**FLOOR AREA RATIO VARIANCE APPROVED**

To: Mike and Sarah Kukla  
14 Fern Oval  
Orangeburg, New York 10962

ZBA #18-43  
Date: July 18, 2018  
Permit #47753

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-43: Application of Mike and Sarah Kukla for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 3.12 Column 4 (Floor Area Ratio: 30% permitted, 33% proposed) for an addition over the garage at an existing single-family house. The premises are located at 14 Fern Oval, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.09, Block 2, Lot 23; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 18, 2018 at which time the Board made the determination hereinafter set forth.

Sarah and Michael Kukla and appeared and testified.

The following documents were presented:

1. Addition noted on Plot Plan by Paul Douglas Siebenaler, Architect based on survey dated 08/28/1963 by Michael M. Burris, P. E.
2. Architectural plans dated 06/04/2018 labeled "Proposed Addition to the Kukla Residence" by Douglas Siebenaler, not signed or sealed.
3. One color picture of the Kukla house and four other pictures in the immediate neighborhood of houses similar to the Kukla's house with the proposed addition added to them.

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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Salomon, aye; Mr. Sullivan, aye; and Mr. Feroldi, aye. Ms. Castelli was absent.

Sarah Kukla testified that they are before the Board because they need a floor area ratio variance for their proposed addition; that they are proposing to add a master bedroom, master bathroom and closet above the existing two car garage; that they have four children, three boys and one girl, and two of the boys will share a bedroom when they are finished with the addition; that the existing bedrooms are not large; that they have owned the house for ten years; that the kids are aged 11, 9, 6 and 2; and that they would request that the Board allow the original survey and the plot plan submitted to be acceptable for the addition; that the proposed addition is to expand over the existing garage.

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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 floor area ratio variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed addition is not changing the footprint of the building and the proposed addition is a reasonable request for the area. The existing original survey and submitted plot plan are acceptable and the applicant does not need to have a new survey done for the property. 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. The proposed addition is not changing the footprint of the building and the proposed addition is a reasonable request for the area. The existing original survey and submitted plot plan are acceptable and the applicant does not need to have a new survey done for the property. 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 variances.
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. The proposed addition is not changing the footprint of the building and the proposed addition is a reasonable request for the area. The existing original survey and submitted plot plan are acceptable and the applicant does not need to have a new survey done for the property. Similar additions have been constructed in the area.

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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 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.

Kukla

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The foregoing resolution to approve the application for the requested floor area ratio variance is APPROVED and the applicant's survey and plot plan as presented are acceptable; was presented and moved by Ms. Salomon, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Salomon, aye. Ms. Castelli 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: July 18, 2018

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  
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TOWN CLERK'S OFFICE

DECISION

**FLOOR AREA RATIO AND ACCESSORY STRUCTURE SIDE YARD VARIANCES APPROVED**

To: Bernard Gallagher  
45 West Nauraushaun Ave.  
Pearl River, New York 10965

ZBA #18-44  
Date: July 18, 2018  
Permit #47397

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-44: Application of Bernard Gallagher for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.11, Column 4 (Floor Area Ratio: .20 permitted, .24 proposed) and from Section 5.227 (Accessory structure side yard : 5' required, 3.8' & 4.1' proposed) to replace a garage that was destroyed by fire at an existing single-family residence located at 45 West Nauraushaun Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.18, Block 3, Lot 47; 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 18, 2018 at which time the Board made the determination hereinafter set forth.

Bernard Gallagher and Christopher Farrell appeared and testified.

The following documents were presented:

1. Site Plan signed and sealed by Robert Michael Esmay, Architect, dated 02/15/2018 based on a survey dated 02/14/2003 by Jay A. Greenwell, PLS, LLC.
2. Architectural plans labeled "Repair of Existing fire damaged two-car garage for the Gallagher residence" dated 02/15/2018 signed and sealed by Robert Michael Esmay, Architect, ( 3 pages).
3. Copy of Survey dated 02/14/2003 by Jay A. Greenwell, PLS, LLC.
4. A memorandum dated June 18, 2018 from the Rockland County Department of Planning stating that the application is not in their jurisdiction.
5. A letter dated June 18, 2018 from the Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
6. Thirteen pictures of house with garages in the area.

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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Salomon, aye; Mr. Sullivan, aye; and Mr. Feroldi, aye. Ms. Castelli was absent.

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Bernard Gallagher testified that the garage burnt down to the ground two years ago; that the house does not have a basement; that he is proposing to increase the height of the garage to add some storage space and to turn the gable ends to face east/ west to match the neighboring garages; that this will help with drainage too; that the door to the garage will face the street; that he has lived in the house since 1974; that the garage slab is a perfect square and accommodates turning the gable roof.

Public Comment:

No 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 and accessory structure side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed garage is replacing a garage that existed in this location for many years without incident.
2. The requested floor area ratio and accessory structure side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed garage is replacing a garage that existed in this location for many years without incident.
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 and accessory structure 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. The proposed garage is replacing a garage that existed in this location for many years without incident.

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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 and accessory structure side 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.


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The foregoing resolution to approve the application for the requested floor area ratio and accessory structure side yard variances are APPROVED; was presented and moved by Mr. Bosco, seconded by Ms. Salomon and carried as follows: Mr. Quinn, aye; Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Feroldi, aye; and Ms. Salomon, aye. Ms. Castelli 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: July 18, 2018

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  
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DECISION

**REAR YARD AND ACCESSORY STRUCTURE DISTANCE TO PRINCIPAL BUILDING VARIANCES APPROVED**

To: Tommy and Malena Fogarty  
4 Theis Lane  
Blauvelt, New York 10913

ZBA #18-45  
Date: July 18, 2018  
Permit #47655

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-45: Application of Tommy and Malena Fogarty for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 3.12, Column 11(Rear Yard: 50' required, 16' proposed) and from Section 5.153 (Accessory structure distance to principal building: 15' required, 6' existing to shed & 12' proposed) for an outdoor kitchen at an existing single-family residence. The premises are located at 4 Theis Lane, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 65.17, Block 1, Lot 37 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 18, 2018 at which time the Board made the determination hereinafter set forth.

David Delardi, Landscape Architect, Tommy and Malena Fogarty appeared and testified.

The following documents were presented:

1. Plot plan based on survey dated June 7, 2017 by Arkadiusz Jusiega, PLS signed and sealed by Jane Christine Slavin, Architect.
2. Hand drawings on the site plan by Steves Masonry for an outdoor kitchen (4 pages).
3. A letter dated June 29, 2018 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated July 9, 2018 from the Rockland County Sewer District No. 1 signed by Joseph La Fiandra, Engineer II.
5. A letter dated July 5, 2018 from the Rockland County Drainage Agency signed by Vincent Altieri, Executive Director.
6. A letter dated June 18, 2018 from the Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.

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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Quinn, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Sullivan, aye; and Mr. Feroldi, aye. Ms. Castelli was absent.

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David Delardi, Landscape Architect, testified that this design is part of a larger scope job for the future; that they are eventually planning to install a pool but presently are stating with the outdoor kitchen and patio and legalizing the existing shed; that they are installing a zen garden and the reason the outdoor kitchen is in this location is because the property has two front yards and the house is tucked back into the southeast portion of the lot and this location keeps the kitchen out of view from the public; that the existing small shed is only 8' x 10' and they did not realize it would need a variance for its location because that size shed usually does not need a permit.

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 rear yard and accessory structure distance to principal building variances 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 is long and narrow with the house tucked into the southeast corner of the lot and the most practical area to place the outdoor kitchen is in the area proposed.
2. The Board voted to override comment #2 in the Rockland County Department of Planning letter dated June 29, 2018 because the cost to the applicant to pay for a new survey for such a small scope of work would be a huge imposition and is not necessary for this application.
3. The requested rear yard and accessory structure distance to principal building variances 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 is long and narrow with the house tucked into the southeast corner of the lot and the most practical area to place the outdoor kitchen is in the area proposed.

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4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested rear yard and accessory structure distance to principal building 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 property has two front yards and is long and narrow with the house tucked into the southeast corner of the lot and the most practical area to place the outdoor kitchen is in the area proposed.
6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested rear yard and accessory structure distance to principal building variances are APPROVED and comment #2 of the letter dated June 29, 2018 from the Rockland County Planning Department is overridden; 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 rear yard and accessory structure distance to principal building variances and to override comment #2 of the letter dated June 29, 2018 from the Rockland County Department of Planning are APPROVED; was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Mr. Feroldi, aye; Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Salomon, aye. Ms. Castelli 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: July 18, 2018

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 CLERK'S OFFICE  
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DECISION

**CONFORMANCE TO PERFORMANCE STANDARDS APPROVED**

To: Richard Walsh (Rockland Hospital Guild)  
2 Irvings Way  
Orangeburg, New York 10962

ZBA #18-46  
Date: July 18, 2018  
Permit # 47735

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-46: Application of Rockland Hospital Guild for review of compliance with performance standards set forth in Zoning Code (Chapter 43) of the Town of Orangetown Code, Sections 4.1 and 10.334 for three (3) emergency generators located at 2 Irvings Way, Orangeburg New York and are identified on the Orangetown Tax Map as Section 73.12, Block 1 Lot 2.2 in the R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 18, 2018 at which time the Board made the determination hereinafter set forth.

Anthony DeRobertis, Project Manager, Lightening Electric and Andy Kohlbrenner, Executive Director Rockland Hospital Guild appeared and testified.

The following documents were presented:

1. A letter not dated from Andy Kohlbrenner, Executive Director, Rockland Hospital Guild to the Town of Orangetown.
2. Tax Map.
3. Generac Protector QS Series Standby Generators Model RG048 48 kW 60 Hz Specs (11 pages).
4. Site Plan dated 9/30/2005 with the latest revision date of 6/6/2005 by Mark Lukasik, P.E. with the three proposed generators drawn on the plan.
5. Use Subject to Performance Standards Resume of Operations dated June 12, 2018.
6. Fire Prevention Supplement.
7. A letter dated June 26, 2018 from Joseph Moran, P.E., Commissioner, Department of Environmental Management and Engineering, Town of Orangetown.
8. A memorandum dated 6/26/2018 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown.
9. A letter dated July 5, 2018 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
10. E-mail dated July 18, 2018 from Karen Serafin with attachments from Ken Tompkins, Real Property Analyst II, State of New York Executive Department Office of Real Property Services dated September 25, 2001 with attachments ( 5 pages)

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

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On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination, based upon the testimony heard by this Board and the facts as presented in the application submissions and in the record, that since the application entails the ZBA engaging in a review to determine compliance with technical requirements the application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (28); which does not require SEQRA environmental review. The motion was seconded by Mr. Quinn and carried as follows: Ms. Salomon, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli were absent.

Andy Kohlbrenner, Executive Director, Rockland Hospital Guild, testified that this is mental illness housing and the clients that live there have a multitude of issues; that when there is a blackout, they need to do an emergency evacuation of the housing and this compromises these people because of health issues; that there are three units, two with 16 beds and one with 12 beds; that some beds are for mental health clients and some are for mental health and deaf clients; that having the emergency generators will eliminate the need to find emergency housing in hotels/motels and allow the clients to stay in the area that they are acclimated to.

Anthony DeRoberts, Lightning Electric, testified that the generators are 348 kw generators that must be placed five(5) feet from the buildings and will have natural gas hook ups; that they are 1800 RPM ½ speed units that run quieter and will be tested weekly; that they will be located near the following buildings identified as: Clue 1: fifty one (51') feet northwest from the property; Clue 2: fifty-seven (57') feet from the property line; Clue 4: sixty-four (64') feet from the property line south end of the buildings as marked on the plan.

The Board reviewed the Performance Standards and Fire Supplement forms.

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.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination, based upon the testimony heard by this Board and the facts as presented in the application submissions and in the record, that since the application entails the ZBA engaging in a review to determine compliance with technical requirements, the application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (28); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Ms. Salomon, aye; Mr. Feroldi, aye; and Mr. Quinn, aye. Ms. Castelli was absent.

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**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all of the documents submitted, the Board found and concluded that:

Based upon the information contained in the applicant's Resume of Operations and Equipment, and the Fire Prevention Supplement; the report dated June 26, 2018 from Joseph J. Moran, P.E., Commissioner of the Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated June 26, 2018 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); the other documents submitted to the Board, and the testimony of Applicant's representatives, the Board finds and concludes that the application conforms with the Performance Standards set forth in Zoning Code Section 4.1, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., B.F.P., and all other departments having jurisdiction of the premises.

**DECISION:** In view of the foregoing and the testimony and documents submitted, the Board: **RESOLVED** that the Application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is **APPROVED** with the following **SPECIFIC CONDITIONS:** (1) the report dated June 26, 2018 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.) shall be complied with; (2) the report dated June 26, 2018 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); shall be complied with; **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, Performance Standards Conformance, 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, Performance Standards Conformance, or Special Permit by the Board is limited to the specific variance, Performance Standards Conformance, 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 Performance Standards Conformance, variances, or Special Permit being requested.

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(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, Performance Standards Conformance, 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 approved variance, Performance Standards Conformance, or Special Permit will lapse if any contemplated construction of the project or any use for which the variance, Performance Standards Conformance 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 conformance to Performance Standards with the following conditions: (1) the report dated July 18, 2018 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.) shall be complied with; (3) the report dated July 26, 2018 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.) shall be complied with; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Quinn, aye; Ms. Salomon, aye; Mr. Feroldi, aye ; Mr. Bosco, aye; and Mr. Sullivan, aye. Ms. Castelli 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: July 18, 2018

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERK'S OFFICE  
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TOWN OF ORANGETOWN

DECISION

**OFF-STREET PARKING VARIANCE APPROVED**

To: Douglas Faehndrich ( AJ'S)  
31 Fairmount Ave. Apt 11  
Hackensack, New Jersey 07601

ZBA #18-47  
Date: July 18, 2018  
Permit # 47742

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-47: Application of AJ's Catering for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.11, CS District, Column 6 # 5 (Restaurants minimum required off-street parking spaces : (1) one space for each 100 sq. ft. of gross floor area: 14 off street parking spaces required for new restaurant, 47 off-street parking spaces required for building, (3 off-street parking spaces existing for building) for a proposed restaurant. The premises are located at 15-17 North Main Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.16, Block 1, Lot 19; in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 18, 2018 at which time the Board made the determination hereinafter set forth.

Douglas Faehndrich and Alexander Servidio, owners of AJ's, and Kier Levesque, Architect, appeared and testified.

The following documents were presented:

1. Site Plan dated 06/13/2018 based on a survey by Robert Jost dated March 24, 1954 signed and sealed by Kier B. Levesque, R.A.
2. Architectural plans dated June 2, 2018 labeled "AJ's Kitchen" signed and sealed by Kier B. Levesque, Architect (4 pages).
3. A letter dated June 29, 2018 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated July 5, 2018 from the Rockland County Drainage Agency signed by Vincent Altieri, Executive Director.
5. A letter dated June 21, 2018 from the Rockland County Health Center of Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
6. A letter dated June 19, 2018 from the Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.

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

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Regulations §617.5 (c) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Quinn, aye; Ms. Salomon, aye; Mr. Sullivan, aye; and Mr. Feroldi, aye. Ms. Castelli, and Mr. Bosco were absent.

Douglas Faehndrich testified that they are moving the business into 17 N. Main Street; that the space was previously used for retail and is being converted into restaurant space; that he would like to show the Board pictures of all of the available parking spaces in the area; that the existing three parking spaces will not be available for their use but they do not foresee a problem with parking because they are planning on seating between 25 and 30 people; that they presently do all take-out and catering; that they will be open from 10:00 A.M. to 8:00 P.M weekdays and from 10:00 A.M. till 10:00 P.M. on Friday and Saturday.

Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested off-street parking variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant provided time stamped pictures to the Board showing ample on street and parking lot parking spaces available during their proposed hours of operation.
2. The requested off-street parking variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant provided time stamped pictures to the Board showing ample on street and parking lot parking spaces available during their proposed hours of operation.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.

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4. The requested off street parking 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 provided time stamped pictures to the Board showing ample on street and parking lot parking spaces available during their proposed hours of operation.
5. The applicant leased 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 off street parking variance is **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

**General Conditions:**

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

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

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

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

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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 off street parking variance is APPROVED; was presented and moved by Mr. Feroldi, seconded by Mr. Bosco and carried as follows: Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Mr. Feroldi, aye. Ms. Castelli 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: July 18, 2018

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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TOWN OF ORANGETOWN

DECISION

**FRONT YARD VARIANCE APPROVED**

To: Avi and Natlalie Barak  
136 Washington Spring Road  
Palisades, NY 10964

ZBA #18-48  
Date: July 18, 2018  
Permit # 47742

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-48: Application of Avi and Natalie Barak for a variance from Zoning Code (Chapter 43) of the Town of Orangetown, Section 3.12, R-40 District, Group E, Column 8 (Front Yard: 50' required, 34.7' existing and proposed) for a front porch at an existing single-family residence. The premises are located at 136 Washington Spring Road, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.18, Block 1, Lot 33 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 18, 2018 at which time the Board made the determination hereinafter set forth.

Seth Glasser, Contractor, Natalie Barak appeared and testified.

The following documents were presented:

1. Survey by Anthony Celentano dated April 3, 2018 signed and sealed by Anthony Celentano, L.S.
2. Architectural plans dated January 18, 2018 labeled Barak Residence signed and sealed by Margaret Fowler, Architect (3 pages).

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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Quinn, aye; Ms. Salomon, aye; Mr. Sullivan, aye; and Mr. Feroldi, aye. Ms. Castelli, and Mr. Bosco were absent.

Natalie Barak testified that they would like to make the lower deck match the upper deck; that they have two front yards and the property is the shape of a slice of pizza; that the lot is undersized for the zone; and that they already appeared before the Historic Board and got their approval.

Public Comment:

No public comment.

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by 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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The front yard condition already exists for the second story deck and the applicant is extended the lower deck to match the existing second level deck. The lot is undersized.
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 front yard condition already exists for the second story deck and the applicant is extended the lower deck to match the existing second level deck. The lot is undersized.
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 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 front yard condition already exists for the second story deck and the applicant is extended the lower deck to match the existing second level deck. The lot is undersized.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

(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 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. Feroldi, aye; Mr. Sullivan, aye; Ms. Salomon, aye. Ms. Castelli 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: July 18, 2018

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 OF ORANGETOWN

DECISION

**REAR YARD VARIANCE APPROVED**

To: Jeffrey Heck  
11 Helaine Court  
Orangeburg, New York 10962

ZBA #18-49  
Date: July 18, 2018  
Permit # 47622

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-49: Application of Jeffrey Heck for a variance from Zoning Code (Chapter 43) of the Town of Orangetown, Section 3.12, RG District, Group Q, Column 11 (Rear Yard: 25' required, 21.8' proposed) for a deck at an existing single-family residence. The premises are located at 11 Helaine Court, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.13, Block 3, Lot 80 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 18, 2018 at which time the Board made the determination hereinafter set forth.

Jeffrey and Elaine Heck appeared and testified.

The following documents were presented:

1. Site plan labeled "of Property at Orangeburg" with a hand drawn in deck not signed or sealed, no survey referenced.
2. Deck plans (5 pages) hand drawn.

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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Quinn, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Bosco, aye; and Mr. Feroldi, aye. Ms. Castelli was absent.

Jeffrey Heck testified that he would like to replace his old deck with a new larger deck that is 14' x 23' that they have grandchildren that come to visit often and the old deck was more narrow and the kids climb up on chairs and it makes his wife nervous; that this slightly larger deck will be more comfortable for furniture and sitting around the table; that the new deck will meet all the codes for safety features today; and that they have owned the house for 34 years.

Public Comment:

No public comment.

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by 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 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The change to deck size is not significantly larger and the new deck will be built to current code.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The change to deck size is not significantly larger and the new deck will be built to current code.
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 rear 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 change to deck size is not significantly larger and the new deck will be built to current code.
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

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**DECISION:** In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested rear 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 CLERK'S OFFICE  
2018 JUL 24 P 2:40  
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested rear yard variance is APPROVED; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Feroldi, aye; Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye. Ms. Castelli 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: July 18, 2018

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  
2018 JUL 24 P 2:40  
TOWN CLERK'S OFFICE

DECISION

**SIDE YARD VARIANCE AND SECTION 5.227 REAR YARD ACCESSORY STRUCTURE VARIANCE APPROVED**

To: Stephen Magee  
243 Edsall Terrace  
Pearl River, New York 10965

ZBA #18-50  
Date: July 18, 2018  
Permit # 47489

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-50: Application of Stephen Magee for a variance from Zoning Code (Chapter 43) of the Town of Orangetown, Section 3.12, R-15 District, Group M, Column 9 (Side Yard: 20' required, 16' proposed) for a pool and from Section 5.227 (Accessory Structure rear yard: 5' required, 1 ½' existing for a shed at an existing single-family residence. The premises are located at 243 Edsall Terrace, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.14, Block 3, Lot 34 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 18, 2018 at which time the Board made the determination hereinafter set forth.

Stephen Magee appeared and testified.

The following documents were presented:

1. Plot Plan dated 05/04/2018 based on a survey by Anthony R. Celentano dated January 30, 2014 signed and sealed by Barbara Hess, Architect.
2. Five letters from abutting property owners in support of the application for the pool.

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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Quinn, aye; Ms. Salomon, aye; Mr. Sullivan, aye; and Mr. Feroldi, aye. Ms. Castelli, and Mr. Bosco were absent.

Stephen Magee testified that the shed on the plans had been removed and there is another shed (sized 10 x 10 feet) located in the west side corner of the lot approximately 7 feet from the west side of the property and approximately 1 foot 6 inches from the stone wall located at the north property line; that he is proposing the pool at that location because he would like it to line up with the double doors in the rear of the house and if he moved it over it would be off center and too close to the single door that opens out; that he also has a patio that is 3' off the rear of house which juts out in the back and would be approximately ten foot from the proposed pool at its proposed location.

Public Comment:

No public comment.

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by 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 and the Section 5.227 accessory structure rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property line slants in along the side of the house that the pool is proposed to be located in and if the pool was moved over more into the center of the yard, it would be very close to the existing patio. Five neighbors closest to the property wrote letters in support of the application. The shed has existed in this location without incident for many years.
2. The requested side yard variance and the Section 5.227 accessory structure rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property line slants in along the side of the house that the pool is proposed to be located in and if the pool was moved over more into the center of the yard, it would be very close to the existing patio. Five neighbors closest to the property wrote letters in support of the application. The shed has existed in this location without incident for many years.
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 variance and the Section 5.227 accessory structure rear 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 line slants in along the side of the house that the pool is proposed to be located in and if the pool was moved over more into the center of the yard, it would be very close to the existing patio. Five neighbors closest to the property wrote letters in support of the application. The shed has existed in this location without incident for many years.

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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 side yard variance and the Section 5.227 accessory structure rear yard variance are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

**General Conditions:**

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

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

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

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

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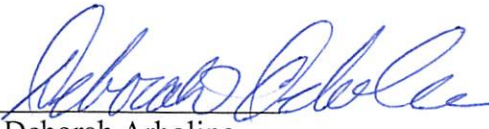
(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown 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 side yard variance and the Section 5.227 accessory structure rear yard variance are APPROVED; was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Mr. Feroldi, aye; Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye. Ms. Castelli 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: July 18, 2018

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
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