

MINUTES
ZONING BOARD OF APPEALS
July 3, 2018

MEMBERS PRESENT: DAN SULLIVAN
THOMAS QUINN
PATRICIA CASTELLI,

ABSENT: JOAN SALOMON
MICHAEL BOSCO
LEONARD FEROLDI, ALTERNATE

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:

SMITH GARAGE 90 Rockland Road Sparkill, NY 78.05 / 1 / 39; R-80 zone	FLOOR AREA RATIO AND SIDE YARD VARIANCES APPROVED	ZBA#18-39
FRASCA 79 Corbett Lane Palisades, NY 78.19 / 1 / 21; R-22 zone	FRONT YARD VARIANCE; ACCESSORY STRUCTURE SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#18-40
GEHNA 38 Dutch Hill Road Orangeburg, NY 74.10 / 1 / 14; RG zone	§3.11, R-80, COLUMN 2 # 7 SUBORDINATE DWELLING SIZE AND §4.54 TWO (2) FRONT DOOR VARIANCES APPROVED	ZBA#18-41
JACOB 29 Mallory Lane Tappan, NY 74.18 / 1 / 16; R-15 zone	REAR YARD VARIANCE APPROVED	ZBA#18-42

TOWN OF ORANGETOWN
JUL 10 3 13 PM
TOWN CLERK'S OFFICE

BOARD DISCUSSION:

The Board discussed the general code books/ access to the code on line and decided that they would appreciate having the books because they do not have laptops present at the meetings to look up the code.

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: Pearl River Campus Internal Commercial Subdivision of Space Plan-Building B2015- Ground Floor, 401 North Middletown Road, Pearl River NY, 68.07 / 2 / 39; LI zone; Orangetown Commerce Center Amendment of Site Plan and Amendment to Internal Commercial Subdivision, 5 Greenbush Road, Orangeburg, NY. 74.15/ 1/ 2; LI District; 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 8:20 P.M.

Dated: July 3, 2018

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By Deborah Arbolino

Deborah Arbolino, Administrative Aide

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

TOWN OF ORANGETOWN
2018 JUL 10 P 3:13
TOWN CLERK'S OFFICE

DECISION

**FLOOR AREA RATIO AND SIDE YARD VARIANCES APPROVED: SECTION 5.21
UNDERSIZED LOT APPLIES**

To: Donald and Jane Smith
90 Rockland Road
Sparkill, New York 10976

ZBA #18-39
Date: July 3, 2018
Permit #47436

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-39: Application of Donald and Jane Smith for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-80 District, Group A, Section 3.12 Column 4 (Floor Area Ratio: 10% permitted, 12.2% proposed) and 9 (Side Yard: 20' required, 3' proposed) (Section 5.21 Undersized Lot Applies) for a detached garage at an existing single-family house. The premises are located at 90 Rockland Road, Sparkill, New York and are identified on the Orangetown Tax Map as Section 78.05, Block 1, Lot 39; in the R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Tuesday, July 3, 2018 at which time the Board made the determination hereinafter set forth.

Donald Smith Meg Fowler, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 02/26/2018 with the latest revision date of 05/18/2018 labeled "Smith Residence" signed and sealed by Margaret L. Fowler, Architect, (2 pages).
2. Survey labeled " Proposed Garage of 90 Rockland Road" dated October 19, 2017 signed and sealed by Anthony R. Celentano, L.S. (1 page).
3. A letter dated May 4, 2018 from the Palisades Interstate Park Commission signed by Karl B. Roecker, Senior Landscape Architect.

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

Donald Smith testified that he is seeking a reasonable floor area ratio variance and the side yard variance that he is requesting actually existed for a garage that they removed from the site and they already received a 3' variance for the carport; that the existing garage that was removed was also too close to the principal structure; that this is the only logical place to build the detached garage because they had to replace the septic system on the house and it and the leech fields take up the rear yard; that they have owned the house for seven years; that there is a large tree in the rear of the house that would be effected if the garage was moved over further away from the side yard; and that he would add screening on the side of the garage even if the Palisades Park Commission did not request it.

TOWN OF ORANGETOWN
2018 JUL 10 P 3:13
TOWN CLERK'S OFFICE

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. Castelli and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard and floor area ratio variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The abutting property owner closest to the side yard encroachment is Tallman State Park and in this location is the overhead electrical service, therefore there are no tree roots that could be damaged by the proposed construction. The applicant has agreed to mitigate any potential visual impacts with a narrow evergreen hedge or a trellis with vines.
2. The requested side yard and floor area ratio variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The abutting property owner closest to the side yard encroachment is Tallman State Park and in this location is the overhead electrical service, therefore there are no tree roots that could be damaged by the proposed construction. The applicant has agreed to mitigate any potential visual impacts with a narrow evergreen hedge or a trellis with vines.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The applicant has a large tree in the rear yard that would be negatively impacted if the proposed garage was moved further to the north and they already replaced the septic system and it and the leeching fields are located in that area.
4. The requested side yard and floor area ratio 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 abutting property owner closest to the side yard encroachment is Tallman State Park and in this location is the overhead electrical service, therefore there are no tree roots that could be damaged by the proposed construction. The applicant has agreed to mitigate any potential visual impacts with a narrow evergreen hedge or a trellis with vines.

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

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 and floor area ratio 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.

TOWN OF ORANGETOWN
2018 JUL 10 P 3:13
TOWN CLERK'S OFFICE


(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 and floor area ratio variances are APPROVED; was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Bosco, Ms. Salomon, 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 3, 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-G.M.

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

TOWN OF ORANGETOWN
2018 JUL 10 P 3:13
TOWN CLERK'S OFFICE

DECISION

FRONT YARD VARIANCE FOR BULL SHED AND SIDE YARD AND BUILDING HEIGHT VARIANCES FOR ACCESSORY STRUCTURE APPROVED

To: Margaret Fowler (Frasca)
500 N. Broadway
Nyack, New York 10960

ZBA #18-40
Date: July 3, 2018
Permit #47490

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-40: Application of Curt and Sabelle Frasca for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-22 District, Group I, Columns 4 (Front Yard: 40' required, 8.1' existing) for existing Bullshed, and from Section 5.227 (Accessory structure side yard for carport: 5' required, 2.7' proposed: 15' building height permitted, 18.2' proposed) for the renovation of an existing bullshed and to remove an existing shed and build a new gatehouse/ carport and new reclaimed barn at an existing single-family residence located at 79 Corbett Lane, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.19, Block 1, Lot 21; in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Tuesday, July 3, 2018 at which time the Board made the determination hereinafter set forth.

Curt Frasca and Meg Fowler, Architect, appeared and testified.

The following documents were presented:

1. Site plan dated 03/13/2018 signed and sealed by Thomas W. Skrable, P.E.
2. Architectural plans labeled "Frasca Residence" dated 04/30/2018 signed and sealed by Margaret L. Fowler, Architect (9 pages).
3. A note of explanation for the planned work from Sabelle and Curt Frasca.

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

Meg Fowler, Architect, testified that the new proposed barn has been removed from the application and will be considered sometime in the future; that the historic bullshed has existed in its present location since sometime in the 1600's; that the plan is to restore it with stone reclaimed from the property and reclaimed wood to bring it back to its previous state; that the idea with the car port and gatehouse is to create privacy from the uphill property that was clear cut and now there is a straight shot view to the house; that there is another property on the other

TOWN OF ORANGETOWN
2018 JUL 10 P 3:13
TOWN CLERK'S OFFICE

side that has also been clear cut; that they would like to keep the carport in line with the existing structure; that the roof is perfect for the Tesla Slate Solar shingles and are shown on drawing A 2.2; that the steep roof of the house compliments the proposed carport roof; that the side yard next to the carport drops off sharply; that the area next to the carport is open and flat and beyond that is the orchard that has been planted; that there is also a stone retaining wall in line with the carport and a they would like to keep access to the walkway that is in line with the proposed carport.

Curt Frasca testified that they purchased the house five years ago; that his wife grew up in the neighborhood; that they would like to bring the property back to its previous glory and maintain it with shot rock and reclaimed wood and undue the dog kennel and also create a more private space to use the flat portion of the property directly below Sedan's Hills Plateau; that the neighbor's house is about 20' from the property line; that they owned both properties and sold off the larger piece of property and planted about 30' of bamboo to create privacy between the properties; that they will be removing the bamboo and replacing it with lower greens and the keeping the large Oak tree that is between the carport and the existing garage.

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. Castelli and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard variance for the existing Bullshed and the §5.227 Accessory structure side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The front yard condition for the bullshed is existing; the requested §5.227 accessory structure variances for side yard and building height for the proposed carport is set back quite far from the road and is parallel to an existing rock wall and walkway.

TOWN OF ORANGETOWN
2018 JUL 10 PM 3:13
TOWN CLERK'S OFFICE

2. The requested front yard variance for the existing Bullshed and the §5.227 Accessory structure side yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The front yard condition for the bullshed is existing; the requested §5.227 accessory structure variances for side yard and building height for the proposed carport is set back quite far from the road and is parallel to an existing rock wall and walkway.
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 for the existing Bullshed and the §5.227 Accessory structure side yard and building height 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 front yard condition for the bullshed is existing; the requested §5.227 accessory structure variances for side yard and building height for the proposed carport is set back quite far from the road and is parallel to an existing rock wall and walkway.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested front yard variance for the existing Bullshed and the §5.227 Accessory structure side yard and building height variances are APPROVED with the SPECIFIC CONDITION that the applicant submit new plans without the "Proposed Barn" since it is not part of this application; 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.

TOWN CLERK'S OFFICE
2018 JUL 10 P 3:13
TOWN OF ORANGETOWN

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

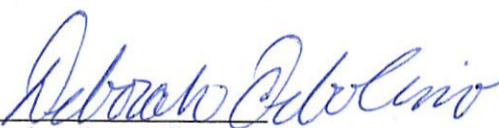
(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown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

The foregoing resolution to approve the application for the requested front yard variance for the existing Bullshed and the §5.227 Accessory structure side yard and building height variances are APPROVED with the Specific Condition that the applicant submit new plans without the "Proposed Bard" since it is not part of this application; was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Ms. Salomon, Mr. Feroldi and Mr. Bosco 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 3, 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
2018 JUL 10 P 3:13
TOWN OF ORANGETOWN

DECISION

**§ 3.11, R-80 COLUMN 2, #7 ADDITIONAL DWELLING UNIT OVER 600 SQ. FT. AND
§ 4.54 TWO (2) FRONT DOORS FOR LOCAL LAW #7 VARIANCES APPROVED**

To: Nazir Gehna
38 Dutch Hill Road
Orangeburg, New York 10962

ZBA #18-41
Date: July 3, 2018
Permit # 47376

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-41: Application of Nazir Gehna for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 3.11, refers to R-80 Column 2 #7 (additional dwelling unit clearly subordinate to main 1-family use to occupy not more than 600 sq. ft. of floor area, subject to Section 4.5; 778 sq. ft. proposed) and from Section 4.54 (there shall be only a single front entrance to the dwelling: 2 entrances existing) for an owner occupied Local Law 7 conversion at an existing single-family residence. The premises are located at 38 Dutch Hill Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.10, Block 1, Lot 14 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Tuesday, July 3, 2018 at which time the Board made the determination hereinafter set forth.

Nazir Gehna and Mukhtar Gehna appeared and testified.

The following documents were presented:

1. Copy of survey for Nazir and Mukhtar Gehna dated 10/03/1989 signed and sealed by Robert R. Rahnefeld, PLS.
2. Architectural plans dated 04/14/2018 signed and sealed by Gustavo Jara, R.A. (2 pages).

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

Mukhtar Gehna testified that the space is existing at more than 600 sq. ft.; that they have not added a kitchen yet; that they would like the space for their daughter and her husband; that the garage is already there and they have owned the house since 1989.

Public Comment:

No public comment.

TOWN OF ORANGETOWN
2018 JUL 10 P 3:13
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 Ms. Castelli and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested § 3.11, R-80, Column 2 # 7 additional dwelling unit size and §4.54 two front doors for local law #7 variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The subordinate dwelling unit although larger than the permitted 600 sq. ft., shall be constructed within the existing structure and the two front doors already exist.
2. The requested § 3.11, R-80, Column 2 # 7 additional dwelling unit size and §4.54 two front doors variances from the Town Code Chapter 43, Section 4.5 will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The subordinate dwelling unit although larger than the permitted 600 sq. ft., shall be constructed within the existing structure and the two front doors already exist.
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 § 3.11, R-80, Column 2 # 7 additional dwelling unit size and §4.54 two front doors variances from the Town Code Chapter 43, Section 4.5, 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 subordinate dwelling unit although larger than the permitted 600 sq. ft., shall be constructed within the existing structure and the two front doors already exist.
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
2018 JUL 10 P 3:13
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 § 3.11, R-80, Column 2 # 7 additional dwelling unit size and Town Code Chapter 43, §4.54 two front doors 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 OF ORANGETOWN
2018 JUL 10 P 3:13
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested § 3.11, R-80, Column 2 # 7 additional dwelling unit size and Town Code Chapter 43, §4.54 two front doors variances variance is APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Feroldi, Mr. Bosco and Ms. Salomon 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 3, 2018

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By *Deborah Arbolino*
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 10 P 3:14
TOWN CLERK'S OFFICE

DECISION

REAR YARD VARIANCE APPROVED

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

ZBA #18-42
Date: July 3, 2018
Permit #47641

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-42: Application of Sara Jacobs for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 11 (Rear Yard: 35' required, 18.4' and 29.8 existing) to legalize an existing deck and single-story addition at an existing single-family house. The premises are located at 29 Mallory Lane, Tappan, New York and are identified on the Orangetown Tax Map as Section 74.18, Block 1 Lot 16 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Tuesday, July 3, 2018 at which time the Board made the determination hereinafter set forth.

Kier Levesque, Architect, and Brian Jacobs appeared and testified.

The following documents were presented:

1. Site plan labeled "Jacobs Site Plan" based on a survey by Stephen F. Hoppe, L.S dated March 2, 2018 and As-Built Deck Plans dated May 22, 2017 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. Castelli 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. Castelli and carried as follows: Mr. Quinn, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Feroldi, Ms. Salomon, and Mr. Bosco were absent.

Kier Levesque, Architect, testified that the house has recently been listed for sale; that the extension in the rear of the house was built in 1977 and the building permit was never closed out; that the deck was built a little larger than the permit allowed and that permit was not closed out; that a new survey has since been done and it does not match the measurements from the old survey; that the updated plans bring everything up to date; that they are before the Board tonight to legalize the existing structures so that the house can be sold.

Brian Jacobs stated that he is appearing on behalf of his Mom; that his Mom lived in the house since 1965; that in order to sell the house and move forward the permits need to be closed out and certificate of occupancies must be obtained.

TOWN OF ORANGETOWN
2018 JUL 10 P 3:14
TOWN CLERK'S OFFICE

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. Castelli and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The deck and addition were built in the 1970's and the permits were not closed out and never received certificate of occupancies for either structure. The applicant is trying to legalize those structures in order to sell the house. There have been no complaints regarding the addition or the existing deck.
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 deck and addition were built in the 1970's and the permits were not closed out and never received certificate of occupancies for either structure. The applicant is trying to legalize those structures in order to sell the house. There have been no complaints regarding the addition or the existing deck.
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 deck and addition were built in the 1970's and the permits were not closed out and never received certificate of occupancies for either structure. The applicant is trying to legalize those structures in order to sell the house. There have been no complaints regarding the addition or the existing deck.
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
2018 JUL 10 P 3:14
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 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.

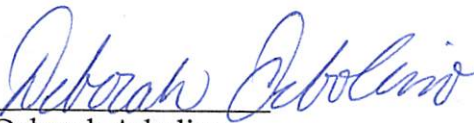
TOWN OF ORANGETOWN
2018 JUL 10 P 3:14
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested rear yard variance is APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Mr. Quinn, aye; and Mr. Sullivan, aye; Ms. Salomon, Mr. Bosco, 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 3, 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.

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