

MINUTES
ZONING BOARD OF APPEALS
MAY 15, 2019

MEMBERS PRESENT: DAN SULLIVAN
PATRICIA CASTELLI,
THOMAS QUINN
JOAN SALOMON

ABSENT: MICHAEL BOSCO
LEONARD FEROLDI, ALTERNATE

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

ST. THOMAS DORMITORY 125 Route 340 Sparkill, NY 74.16 / 1 / 1 & 74.12 / 1 / 29 ; R-40 zone	PARKING, FLOOR AREA RATIO, AND ARTICLE VIII SECTION 8.2 (A), (C) & (D) APPROVED	ZBA#19-46
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SEVENTH DAY ADVENTIST CHURCH SIGN 210 Old Middletown Road Pearl River, New York 69.09 / 2 / 52; R-15 zone	POSTPONED TO JUNE 5 2019	ZBA#19-47
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MC KIERNAN 351 Laurel Road Pearl River, NY 68.07 / 3 / 59; R-15 zone	SIDE YARD VARIANCE APPROVED	ZBA#19-48
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CAULFIELD 121 Swanekin Road Blauvelt, NY 69.20 / 1 / 9; R-15 zone	TOTAL SIDE YARD VARIANCE APPROVED	ZBA#19-49
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TOWN OF ORANGETOWN
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FLANAGAN-OST
79 Braunsdorf Road
Pearl River, NY
68.16 / 5 / 33; RG zone

FLOOR AREA RATIO, ZBA# 19-50
FRONT YARD, AND BUILDING
HEIGHT VARIANCES APPROVED
§ 5.21 UNDERSIZED LOT ACKNOWLEDGED

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: Henry Kaufman Campgrounds Amendment to Preliminary Approval of the Master Plan, (PB# 17-59 dated February 28, 2018) 667 Blauvelt Road, Pearl River, NY, 69.14 / 1 / 28; R-80 zone; Henry Kaufman Campgrounds Amendment to Preliminary Site Plan, (PB# 17-58 dated February 28, 2018) 667 Blauvelt Road, Pearl River, NY, 69.14 / 1 / 28; R-80 zone; 1044 Route 9W Site Plan, Critical Environmental Area, 1044 Route 9W, Nyack, NY 71.09 / 1 / 30; R-22 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:40 P.M.

Dated: May 15, 2019

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 

Deborah Arbolino, Administrative Aide

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

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DECISION

PARKING SPACES, FLOOR AREA RATIO, ARTICLE VIII, SECTION 8.2 (A) , (C) & (D) VARIANCES APPROVED

To: John Atzl (St. Thomas Dorms)
234 North Main Street
New City , New York 10956

ZBA #19-46
Date: May 15, 2019
Permit #48423

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-46: Application of St Thomas Aquinas College Dormitory Site Plan for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group H, Section 3.11, Column 6 (Parking: 814 Parking Spaces required; 740 Parking Spaces proposed) and from Section 3.12 Column 4 (Floor Area ratio: .15% permitted, .191% existing, .194% proposed) and from Article VIII, Section 8.2 Dormitories (A) there shall be a minimum lot area of 1,800 sq. ft. provided per dormitory bed, exclusive of the lot area allocated and devoted to the principal and other accessory buildings on any site, including the required yard and/or setbacks, buffers and parking facilities for said buildings: (492,550 sq. ft. /1,800 = 274 total beds permitted; 656 total beds existing; 728 total beds proposed: withdrawn); from Article VIII Section 8.2 (C): (The minimum distance between any dormitory and any interior driveway shall be 25' and 5' is proposed) and from Article VIII Section 8.2 (D): (The maximum height of any dormitory shall be two stories or 25 feet, whichever is less: 33.5' existing and 33.5' proposed) for additional dormitories at the College. The College is located at 125 Route 340, Sparkill, New York and are identified on the Orangetown Tax Map as Section 74.16, Block 1, Lot 1 and Section 74.12, Block 1, Lot 29 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 15, 2019 at which time the Board made the determination hereinafter set forth.

John Atzl, L.S. P.E., Joe Donini, Vice President, St. Thomas Aquinas and Ed Arcari, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "St. Thomas Aquinas College Dormitory Plan" dated September 22, 2018 with the latest revision date of March 29, 2019 signed and sealed by John R. Atzl, Land Surveyor and Ryan A. Nasher, P.E. (6 pages).
2. Architectural plans labeled "New Residence Hall" by Arcari Iovino, not signed or sealed (3 pages).
3. A memorandum dated March 28, 2019 from Jane Slavin. RA, Director, Office Building Zoning, Planning Administration and Enforcement.(2 pages)
4. A memorandum dated February 25, 2019 from Jane Slavin. RA, Director, Office Building Zoning, Planning Administration and Enforcement.(2 pages)
5. Planning Board Decision #19-12 dated March 13, 2019.
6. A narrative summary dated March 20, 2019 from Atzl, Nasher & Zigler, P.C..
7. A letter dated May 2, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning. (3 pages)
8. A letter dated April 15, 2019 from the Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
9. A letter dated May 7, 2019 from the Rockland County Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.

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10. A sign off sheet from Rockland County Health with comments attached and a sign off sheet from Rockland County Highway stating they have no comments at this time.

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 since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and, on March 13, 2019 (Planning Board # 19-12 St. Thomas Aquinas College Dormitory Site Plan) rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a “Negative Declarations” of “Neg Dec.”), the ZBA is bound by the Planning Board’s Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco and Mr. Feroldi were absent.

John Atzl testified that this application is for a two story , 36 room dormitory with 72 beds; that it will be located on the south side of building 300; that there will be no increase in the number of students or staff, there will be no impact on parking; that the existing dormitories have quad rooms (4 beds per room) and these are no longer desirable and the College wishes to reduce the number of beds in some of these rooms and the students would be relocated to the new dormitory; that there will not be an increase in the total number of beds; that the previous plan noted a new variance for the total number of beds and at the Planning Board meeting on March 13, 2019, it was determined that the total bed count would not exceed the total of 656 beds per the variance granted on March 5, 2008; that there will be a reduction of five parking spaces, in the two parking areas adjacent to the new Dormitory; that this is to provide a striped fire land to access the re-located fire lane and the area adjacent to the new dormitory on the west side and will have a minimal impact on the overall parking; that a variance for parking is required, a variance for the floor are ratio and minimum distance between the Dormitory and interior drive is also required; that the new dormitory will be close to the sidewalk and parking are but the side walk is not the walkway used to enter the building; that doors on that side of the building are for emergency access only; that they could reduce the 8’ wide corridor in the building to add 2’ for buffers in the rear as suggested by the County if the Board wants that to be done.

Ed Arcari, Architect testified that the dorm rooms are 270 sq. ft.; that the height of the building will match the height previously approved for the other dorms.

Joe Donini testified that if they do not have to reduce the width of the building to accommodate comment #6 of the Rockland County Planning letter, they would prefer to keep the eight foot wide interior hallway which would be used daily as opposed to the emergency exits on the south and east side of the building.

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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 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 parking space, floor area ratio, Article VIII, Section 8.2 (A), (c) & (D) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant withdrew the request to add more beds and modified the request for more dormitory rooms with the number of beds remaining the same as they were granted on March 5, 2008. Without the increase in the number of beds, the parking needs do not increase. Providing striped fire lane access adjacent to the new dormitory is a safety issue and giving up a few parking spaces to accommodate it is necessary. Although the new dormitory will be close to the parking area, the side walk directly adjacent to the parking area is not used as an entrance to the dormitory, the south side and east side entrances/exists on the building are used for emergency access only; therefore additional supplemental landscape area is not necessary.
2. The applicant has agreed to implement designated areas for snow removal on the site.
3. The requested parking space, floor area ratio, Article VIII, Section 8.2 (A), (c) & (D) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant withdrew the request to add more beds and modified the request to request more dormitory rooms with the number of beds remaining the same as they were granted on March 5, 2008. Providing striped fire lane access adjacent to the new dormitory is a safety issue and giving up a few parking spaces to accommodate it is necessary. Although the new dormitory will be close to the parking area, the side walk directly adjacent to the parking area is not used as an entrance to the dormitory, the south side and east side entrances/exists on the building are used for emergency access only; therefore additional supplemental landscape area is not necessary.
4. 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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5. The requested parking space, floor area ratio, Article VIII, Section 8.2 (A), (c) & (D) 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 applicant withdrew the request to add more beds and modified the request to request more dormitory rooms with the number of beds remaining the same as they were granted on March 5, 2008. Providing striped fire lane access adjacent to the new dormitory is a safety issue and giving up a few parking spaces to accommodate it is necessary. Although the new dormitory will be close to the parking area, the side walk directly adjacent to the parking area is not used as an entrance to the dormitory, the south side and east side entrances/exists on the building are used for emergency access only; therefore additional supplemental landscape area is not necessary.

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 parking space, floor area ratio, Article VIII, Section 8.2 (A), (C) & (D) 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.

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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 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 parking space, floor area ratio, Article VIII, Section 8.2 (A), (c) & (D) variances are APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. 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: May 15, 2019

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

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DECISION

SIDE YARD VARIANCE APPROVED

To: Kevin Brodie (McKiernan Deck)
218 Spring Street
Monroe, New York 10950

ZBA #19-48
Date: May 15, 2019
Permit #47611

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-48: Application of Annie McKiernan for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 9 (Side Yard: 15' required, 13.2' proposed) Section 5.21 Undersized lot applies for a deck at an existing single-family residence. The premises are located at 351 Laurel Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.07, Block 3, Lot 59 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 15, 2019 at which time the Board made the determination hereinafter set forth.

Kevin Brodie, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Deck Replacement for Annie McKiernan" dated 07/26/2018 with the latest revision dated of 04/16/2019 (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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Bosco and Mr. Feroldi were absent.

Kevin Brodie, Architect, testified that the Mc Kiernan's purchased the house in 1973 and there was a deck on the house in this location but it was a 6' x 8' deck; that in 1989 Mr. McKiernan replaced the deck with a 12' x 24' deck in the same location; that there is no evidence that a building permit was obtained at that time; that Mc Kiernan is deceased and Mrs. Mc Kiernan would like to replace the existing deck that is presently rotting with a code compliant deck on the same foundation; that the new deck would be constructed of pressure treated wood with 2 x 2 balusters and be an improvement .

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 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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged that the lot is undersized and that the required side yard for the R-15 zone, undersized lot is 15' and this proposal is for a 13.2' side yard. The proposed deck will be a third generation deck to exist in the proposed location without incident.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged that the lot is undersized and that the required side yard for the R-15 zone, undersized lot is 15' and this proposal is for a 13.2' side yard. The proposed deck will be a third generation deck to exist in the proposed location 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 a variance.
4. The requested side yard variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The Board acknowledged that the lot is undersized and that the required side yard for the R-15 zone, undersized lot is 15' and this proposal is for a 13.2' side yard. The proposed deck will be a third generation deck to exist in the proposed location without incident.
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 side yard variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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The foregoing resolution to approve the application for the requested side yard variance is APPROVED; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. 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: May 15, 2019

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

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DECISION

TOTAL SIDE YARD VARIANCE APPROVED

To: Timothy Caulfield
121 Swannekin Road
Blauvelt, New York 10964

ZBA #19-49
Date: May 15, 2019
Permit #45842

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-49: Application of Timothy Caulfield for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 10 (Total Side Yard: 50' required, 40' previously approved and 34.05' existing) for an existing shed attached to an existing single-family residence. The property is located at 121 Swannekin Road, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 69.20, Block 1, Lot 9; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 15, 2019 at which time the Board made the determination hereinafter set forth.

Timothy Caulfield appeared and testified.

The following documents were presented:

1. Copy of site plan showing the location of the shed dated October 13, 2000 signed by Timothy Caulfield.
2. Zoning Board of Appeals Decision #05-05 dated January 5, 2005.

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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Bosco and Mr. Feroldi were absent.

Timothy Caulfield testified that he has an open building permit for work he is doing in the house and when the Building Inspector came out for the final inspection he noticed the bike shed that he built attached to the side of the house without a permit; that it matched the siding of the house and he would like to keep it but needs a total side yard variance in order to keep it and close out the existing permit.

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 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 total side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The variance is minor and the shed has existed for ten years without incident and matches the siding on the house.
2. The requested total side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The variance is minor and the shed has existed for ten years without incident and matches the siding on the house.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested total side yard variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The variance is minor and the shed has existed for ten years without incident and matches the siding on the house.
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 total side yard variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

TOWN OF ORANGETOWN
2019 MAY 21 A 11:12
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested total side yard variance is APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Salomon and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. 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: May 15, 2019

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2019 MAY 21 A 11: 12
TOWN CLERK'S OFFICE

DECISION

FLOOR AREA RATIO, FRONT YARD, AND BUILDING HEIGHT VARIANCES APPROVED; UNDERSIZED LOT ACKNOWLEDGED

To: Daniel and Amanda Flanagan
79 Braunsdorf Road
Pearl River, New York 10965

ZBA #19-50
Date: May 15, 2019
Permit #48639

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-50: Application of Daniel and Amanda Flanagan-Ost for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 3.12, Columns 4 (Floor Area Ratio: .30 permitted, .35 proposed), 8 (Front Yard: 25' required, 16.5' proposed) and 12 (Building Height: 20' permitted, 24' 8" proposed) (Section 5.21 Undersized lot applies) for an addition to an existing single-family residence. The premises are located at 79 Braunsdorf Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.16, Block 5, Lot 33; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 15, 2019 at which time the Board made the determination hereinafter set forth.

Dan and Amanda Flanagan appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Flanagan-Ost Residence" dated 01/01/2019 with the latest revision date of 04/02/ 2019 signed and sealed by Jennifer Claire Lucas, Architect. (5 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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Feroldi and Mr. Bosco were absent.

Daniel Flanagan testified that their existing house is 720 sq. ft.; that they love the street and neighborhood that they live in; that they three year old twin boys and another boy due to be born in August; that they are proposing a 2,000 sq. ft. house when they are finished with the addition; that they are coming forward ten feet and proposing a two story dwelling with a peaked roof; that coming out into the front is in keeping with the character of the neighborhood because several other houses have done similar additions; that the presently have the smallest kitchen in existence; that the house presently has two bedrooms and the new height of the house will be 24' 8" which also is in character with the neighborhood; that the proposed addition will add value and increase the desirable part of the neighborhood; that all of the other houses have done similar additions except for two; and that they bought the house in May 2010.

TOWN CLERK'S OFFICE
2019 MAY 21 A 11:13
TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by 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 floor area ratio, front yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the undersized lot. Similar additions have been constructed in the neighborhood.
2. The requested floor area ratio, front 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 Board acknowledged the undersized lot. Similar additions have been constructed in the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio, front 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 Board acknowledged the undersized lot. Similar additions have been constructed in the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN OF ORANGETOWN
2019 MAY 21 11:13
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 floor area ratio, front yard, and building height 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
2019 MAY 21 A 11:13
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested floor area ratio, front yard, and building height variances are APPROVED; was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. 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: May 15, 2019

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
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