

MINUTES  
ZONING BOARD OF APPEALS  
APRIL 17, 2019

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

ABSENT: MICHAEL BOSCO

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEMS:

ST. DOMINIC'S EMERGENCY GENERATOR 496 Western Highway Blauvelt, NY 74.06 / 3 / 1.1; R-40 zone	PERFORMANCE STANDARDS APPROVED	ZBA#19-29
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DE PINTO 138 West Park Avenue Pearl River, New York 68.19 / 3 / 52; R-15 zone	§3.11 R-80, COLUMN 2 #7 APPROVED WITH COVENANT	ZBA#19-25
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THIRTY- ONE LUDLOW LANE LLC 31 Ludlow Lane Palisades, NY 80.06 / 1/ 30; R-80 zone	FRONT YARD FENCE HEIGHT VARIANCE APPROVED AS MODIFIED	ZBA#19-24
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<u>NEW ITEMS:</u> SULLIVAN 69 Closter Road Palisades, NY 80.05 / 1 / 17; R-40 zone	FRONT YARD FENCE HEIGHT VARIANCE APPROVED WITH CONDITIONS	ZBA#19-35
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TOWN CLERK'S OFFICE

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TOWN OF ORANGETOWN

BOCCHINO  
90 Secor Boulevard  
Pearl River, New York  
69.05 / 2 / 42; R-15 zone

FLOOR AREA RATIO AS ZBA#19-36  
AMENDED TO .27, LOT AREA,  
LOT WIDTH, FRONT YARD, SIDE YARD,  
TOTAL SIDE YARD AND BUILDING HEIGHT  
VARIANCES APPROVED: UNDERSIZE LOT  
ACKNOWLEDGED

TEVIOT  
35 Washington Spring Road  
Palisades, New York  
78.19 / 1 / 9; R-22 zone

ACCESSORY STRUCTURE LOCATION ZBA#19-37  
VARIANCES APPROVED

POSNER  
4 Chapel Court  
Orangeburg, NY  
74.14 / 1 / 6; R-15 zone

SIDE YARD AND TOTAL SIDE YARD ZBA#19-38  
VARIANCES APPROVED

SCHNEIDER SUBDIVISION  
40 Van Wardt Place  
Tappan, NY  
77.15 / 1 / 72; R-15 zone

STREET FRONTAGE AND FRONT YARD ZBA#19-39  
VARIANCES APPROVED

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OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application: Fitzsimmons Minor Subdivision Plan, 315 Blauvelt Road, Pearl River, NY, 69.09/ 5/ 75; R-15 zone; Kayayal Site Plan-Critical Environmental Area, 1070 Route 9W, Nyack, NY, 71.09 / 1 / 10; R-22 zone; The Club West at Pearl River-Phase ii Site Plan, 661 West Blue hill Road, Pearl River, NY 73.10/ 1/ 5; OP-PAV zone; Bul Kwang Zen Center Site plan, Final Site Plan Review, 104 Route 303, Tappan, NY, 77.07/1/2; LO 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 10:00 P.M.

Dated: April 17, 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

**CONFORMANCE TO PERFORMANCE STANDARDS APPROVED WITH  
CONDITIONS**

To: David Reeves (St. Dominic)  
496 Western Highway  
Blauvelt, New York 10913

ZBA #19-29  
Date: March 20, 2019 & April 17, 2019  
Permit # 48326

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA # 19-29: Application of St. Dominic's requesting the Zoning Board of Appeals' review, and determination, of conformance with the Town of Orangetown Zoning Code (Orangetown Code Chapter 43) Section 4.1 Performance Standards review for an emergency generator. The property is located at 496 Western Highway, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 74.06, Block 3, Lot 1.1; in the R-40 zoning district

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, March 20, 2019 and April 17, 2019 at which time the Board made the determination hereinafter set forth.

David Reeves and Robert Lutz, Valentine Electric, appeared and testified.

The following documents were presented:

1. A booklet "Kinsley The Energy Solutions Company" Sisters of St. Dominic KPS Quote-J-18-2479, prepared by James Carlucci, Sales Engineer, Kinsley Power Systems.
2. A partial site plan of the campus not signed or sealed or dated, with hand drawn additions of transformers and generators with highlighted area for the location of the new proposed generator with two google map attachments; hand drawn plan labeled RFL -Valentine Electric Inc. showing concrete pads gravel, primary transformer, primary switch, primary transformer and secondary transformer.
3. A picture of existing transformers.
4. Use Subject to Performance Standards Resume of Operations dated January 3, 2019.
5. Fire Prevention Supplement.
6. A memorandum January 29, 2019 from Michael Weber, Chief Operator, Department of Environmental Management and Engineering, Town of Orangetown.
7. A memorandum January 24, 2019 from Bruce Peters, P.E., Engineer III, Department of Environmental Management and Engineering, Town of Orangetown.
8. A memorandum dated January 29, 2019 from Dylan Hofsis, Jr. Public Health Engineer and Zoning Enforcement Officer, Department of Environmental Management and Engineering, Town of Orangetown.
9. A memorandum dated January 30, 2019 from Eamon Reilly, PE, Commissioner, Department of Environmental Management and Engineering, Town of Orangetown.
10. A memorandum dated 9/27/2018 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown.
11. A letter dated March 14, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.

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12. A sign-off sheet dated February 25, 2019 from the Rockland County Health Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
13. A sign-off sheet dated February 7, 2019 from Rockland County Highway Department signed by Dyan Rajasingham, P.E.
14. A letter dated February 14, 2019 from the Rockland County Sewer district #1 signed by Joseph LaFiandra, Engineer II.
15. An e-mail dated March 15, 2019 from Jeff Lawyer, NYAS DEC Region 3, to Robert Lutz, at Valentine Electric stating that generators used only for emergency power are not require an air permit or registration pursuant to 6NYCRR Part 201-3.2 (c)( 6).
16. NYS DEC Petroleum Bulk Storage Application dated March 18, 2019 (4pages).
17. Kohler Industrial Generator Set Accessories ( 17 pages).

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

Robert Lutz, Valentine Electric, testified that the diesel generator hold 1523 gallons of fuel, that they have submitted the DEC application for petroleum bulk storage; that they have an e-mail from Jeff Lawyer, DEC stating that they do not need an air permit because the generator is only going to be used for emergency power; that they need to install a diesel generator because there is no natural gas lines in that area; that the generator will be approximately 300' to Convent Road; that the sound was measured at 21' and the further away you are, the level of sound is dramatically reduced; that the sub base tank is textured epoxy base and rubber coating; that the tank has a leak detention feature; and that he would like to be continued until the April 17, 2019 meeting to give him time to get a positive letter from the DEME.

The following items were submitted for the April 17, 2019 hearing:

1. A letter dated April 1, 2019 from the Department of Environmental Management and Engineering, Town of Orangetown signed by Eamon Reilly, P.E., Commissioner.
2. Kohler Co. Design Print ( 5 pages).
3. An E-mail dated March 15, 2019 from Jeffrey Lawyer DEC stating that the emergency generator does not require an air permit or registration .
4. Petroleum Bulk Storage Application ( 4 pages).
5. Kohler Industrial Generator Set Accessories (17 pages).
6. Google maps for distance from property line Western Highway.
7. Industrial Generator Set Accessories Kohler ( 4 pages).Google maps distance to Chestnut Oval.
8. Petroleum Bulk Storage Application ( 4pages).
9. Google maps distance to Convent Road.
10. Updated Fire Prevention Supplement and Use Subject to Performance Standards form

Robert Lutz, Valentine Electric, and David Reeves, Facilities Manager, Sisters of St. Dominic, appeared and testified.

Robert Lutz testified that they submitted more details to the DEME; that the tank is double walled aluminum and steel enclosure and the fuel tank is below the generator; that is it a level 2 sound enclosure; that they are exempt from the DEC air permitting regulations because it is a

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standby emergency generator and they are exempt; that they are placing bollards between the trees on the west side of the generator and on the north side; the west side will have about twenty or twenty-one (20 or 21) bollards and the north side will have five or six ( 5 or 6) bollards.

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) (25); which does not require SEQRA environmental review. The motion was seconded by Mr. Quinn and carried as follows: Mr. Feroldi , aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Ms. Salomon did not vote of the application because she was absent for their first presentation. Ms. Castelli missed this hearing because she was late to the meeting. Mr. Bosco was absent.

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. Quinn and carried unanimously.

**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 reports dated January 29, 2019 from Michael Weber, Chief Operator and Bruce Peters, Engineer III, memo dated January 24, 2019, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); memo dated January 29, 2019, from Dylan Hofsis, Junior Public Health Engineer and Zoning Enforcement Officer, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the Memorandums dated January 30, 2019 & April 1, 2019 from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated March 7, 2019 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 St.

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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) A revised site plan showing all of the bollards; (2) dated January 29, 2019 from Michael Weber, Chief Operator and Bruce Peters, Engineer III, memo dated January 24, 2019, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (3) memo dated January 29, 2019, from Dylan Hofsis, Junior Public Health Engineer and Zoning Enforcement Officer, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (4) the Memorandums dated January 30, 2019 & April 1, 2019 from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (5) the report dated March 7, 2019 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P) 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.

(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.

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(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) A revised site plan showing all of the bollards; (2) dated January 29, 2019 from Michael Weber, Chief Operator and Bruce Peters, Engineer III, memo dated January 24, 2019, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (3) memo dated January 29, 2019, from Dylan Hofstiss, Junior Public Health Engineer and Zoning Enforcement Officer, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (4) the Memorandums dated January 30, 2019 & April 1, 2019 from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (5) the report dated March 7, 2019 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P) was presented and moved by Mr. Sullivan, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Ms. Salomon did not vote because she was absent when the case was presented. Mr. Bosco, and Ms. Castelli were absent for this hearing.

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: April 17, 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  
**COVENANT AND SECTION 3.11, R-80 DISTRICT, COLUMN 2 #7 VARIANCE  
APPROVED**

To: John DePinto  
138 West Park Avenue  
Pearl River, New York 10965

ZBA #19-25  
Date: March 6, 2019 & April 17, 2019  
Permit #48241

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-25: Application of John DePinto for an amendment to ZBA Decision # 04-49 which required a covenant and for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 3.11, same as R-80 Column 2 #7 (Conversion of a detached owner-occupied, single-family dwelling so as to add 1 additional dwelling unit clearly subordinate to the main 1-family dwelling use to occupy no more than 600 sq. ft.: 672 sq. ft. exist) and to file the required covenant. The premises is located at 138 West Park Avenue, Pearl River, New York and is identified on the Orangetown Tax Map as Section 68.19, Block 3, Lot 52 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, March 6, 2019 and April 17, 2019 at which time the Board made the determination hereinafter set forth.

John DePinto appeared and testified.

The following documents were presented:

1. Architectural with site plan dated March 3, 2004, signed and sealed by Dennis Letson, PE.
2. Zoning Board of Appeals Decision #04-49 dated May 5, 2004

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

John DePinto testified that he would like to ask permission to keep the apartment that the Board gave him permission for with covenant; that he was approved for the apartment for his mother-in-law; that he would like to file a covenant with Town that does not restrict the apartment to use only by his mother-in-law; that he spent quite a bit of money to construct the apartment and he would like to be able to keep it without that restriction; and that he recently found out that the apartment is a bit over in the size that is permitted; that his mother-in-law always keeps the blinds drawn and curtains closed; that there is so much foliage that there is privacy; that he would like to ask for a continuance to meet with the building inspector and get the size of the apartment figured out.

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Public Comment:

John Purcell, 168 Waters Edge, Congers, NY testified that he is speaking for his mom who is the neighbor right next door to the garage at 57 Magnolia ; that 15 years ago when the applicant asked about making the garage into an apartment for his mother-in-law, my mother was not thrilled about the idea; that garage is only 10' from the property line and has four windows on the side by my mother's house; that the only reason my mother went along with the plan was because she was assured that the building was going to return to a garage after the applicant's mother-in-law was done living there; that there is another house right down the street with the exact same garage; that if the Board allows this, what is stopping that neighbor from coming in and asking he same thing; that the applicant should respect his neighbors and abide by the original conditions of approval and say thank-you for making the exception for me.

At the April 17, 2019 John DePinto testified that he met with the Building Inspector and realized that the building is being measured from the exterior and that is why it is over the permitted square footage; that John Paci did the original inspections and measured from the interior and the living space was 580 sq. ft.; and that he will file the originally requested covenant.

Public Comment:

John Purcell, 168 Waters Edge, Congers, NY testified that 15 years ago when the application was made, his mother was not happy about it but allowed it because it was supposed to revert when he it was no longer needed for his mother; that there are six other people in the area with two car garages that could become cottages in this single-family zone; and that he is opposed to that.

Coyne Patrick, 143 Fairview Avenue, Pearl River, testified that he is an adjoining neighbor to the rear; that the DePinto's are great neighbors; that he remembers when Mrs. Roach moved up from the Bronx and that it is admirable when families take care of each other; that the family is established in the community and the Board should allow Mrs. Roach to stay; and that the family is an asset to the community.

Jim Doyle, 55 Lincoln Avenue, Pearl River, testified that he is John DePinto's brother -in -law and that John has had his mother-in-law living in the apartment for some time now and he doesn't understand the change in measuring but the apartment should not be taken away because of a minor change in size; and that Mrs. Roach is his mother-n-law also.

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; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

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.

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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 variance from Section 3.11, Column 2 #7 for an additional 72 sq. ft. and the original covenant will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. This is a minor change in measurement and Ms. Roach has been living in the space for several years. The applicant has agreed to file the covenant.
2. The requested variance from Section 3.11, Column 2 #7 for an additional 72 sq. ft. and the original covenant will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This is a minor change in measurement and Ms. Roach has been living in the space for several years. The applicant has agreed to file the covenant.
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 variance from Section 3.11, Column 2 #7 for an additional 72 sq. ft. and the original covenant is not substantial. . This is a minor change in measurement and Ms. Roach has been living in the space for several years. The applicant has agreed to file the covenant.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested Section 3.11, Column 2 #7 variance and covenant 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.

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General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested Section 3.11. Column2 #7 variance with covenant is APPROVED; was presented and moved by Mr. Quinn, seconded by Mr. Sullivan and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Ms. Salomon did not vote because she was absent for the first hearing. Mr. Bosco 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: April 17, 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

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DECISION

**SECTION 5.226 FRONT YARD FENCE HEIGHT VARIANCE APPROVED AS AMENDED**

To: David Englander (Thirty-One Ludlow Lane LLC)  
PO Box 549  
Palisades, NY 10964

ZBA #19-24  
Date: March 6, 2019 & April 17, 2019  
Permit #48369

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-24: Application of Thirty-One Ludlow Lane LLC for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-80 District, Group A, Section 5.226 (Fence Height: 4 ½ ' permitted, 6' & 8' proposed) for existing deer fencing at an existing single-family residence. The premises are located at 31 Ludlow Lane, New York and are identified on the Orangetown Tax Map as Section 80.06, Block 1, Lot 30; in the R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, March 6, 2019 and April 17, 2019 at which time the Board made the determination hereinafter set forth.

David Englander, Attorney, appeared and testified.

The following documents were presented:

1. Copy of the survey with the fence location drawn on it.
2. Two letters of support for the application from neighbors.
3. 15 color photographs of the fence submitted by Julie Katz, abutting property owner at 11 Lawrence Lane.

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: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye.

David Englander, Attorney, testified that he was before the Board for the rest of the property and the Board asked that he come back for this portion of the property because it has a different section block and lot number and is owned by an LLC; that the fence is existing and the fence is actually six foot with the two feet above it having the posts and two horizontal wires; about it and they would like to legalize it; and that the owners have viewed this portion of the lot as a rear yard; and that after hearing the objections he would like to request a continuance to see the fence for himself and talk to his client.

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Public Comment:

Julie Katz, 11 Lawrence Lane, an abutting property owner, stated that she never received notice for the last meeting in October because she would have attended and objected; that this deer fencing negatively affects her property; and she submitted 15 color pictures of the existing fence from her house, her yard and the street; that she purchased her property in 2015 and she never would have purchased the property if she knew this could happen; that this fence is not eight feet tall; that it is much higher closer to her house and pointed to a picture showing the height of the fence over 10'; that the fence doesn't stop the deer either; that she has tried to communicate with the house manager but it is difficult; that the owners of the property visit the site about five week-ends per year; that she lives in her house; that the applicants should find another way to accomplish this and the Board should not set a precedence for these high deer fences.

Susan Nemesday, 19 Lawrence Lane, stated that she is an adjacent property owner on the street and that the private road has a 25' easement; that it doesn't make sense to fence this far away from the house because there are no plantings down there to protect and that portion of the property is never used and it does negatively affect their closest neighbor.

At the April 17, 2019 hearing David Englander appeared.

David Englander testified that he met with the neighbors after the last hearing and heard their concerns; that he spoke with his client and they are proposing to take the following steps on the Katz western boundary line the fencing will be setback thirty (30') feet to the west; the setback on the Katz southern boundary will be set back twenty (20') feet to the south; that the setback of the fencing along Lawrence Lane will be an additional thirty (30') feet from the road to the west which will be a total of fifty (50') feet from the road; that these setbacks are intended to will exceed the requirements for permissible fencing provided in Section 5.226 of the Orangetown Code; that the re-installations just mentioned will be without horizontal cross bars; that the re-installations above shall be installed with vertical posts of eight (8') feet and will be otherwise compliant with Section 5.226 of the Orangetown Code; and any vertical posts exceeding eight (8') feet on Ludlow Lane shall be cut or ground down and clearing of the streams and culverts will be part of the routine landscape maintenance for the Story/Garschina property; and they are requesting variances for the present fencing installation as modified with the vertical posts on Ludlow Lane to eight (8') feet.

Public Comment:

Julie Katz, 11 Lawrence Lane, Palisades, testified that she appreciates the changes and it does soften it up a bit and asked when the changes would take place.

Susan Nemesdy, 19 Lawrence Lane, Palisades, testified that she appreciates the fence being moved back.

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.

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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 fence height variance as modified will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties and clearing of the streams and culverts will be part of the routine landscape maintenance for the Story/Garschina property.
2. The requested front yard fence height variance as modified will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district and clearing of the streams and culverts will be part of the routine landscape maintenance for the Story/Garschina property.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested front yard fence height variance as modified, 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 and clearing of the streams and culverts will be part of the routine landscape maintenance for the Story/Garschina property.
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 fence height variance as modified on the Katz western boundary line the fencing will be setback thirty (30') feet to the west; the setback on the Katz southern boundary will be set back twenty (20') feet to the south; that the setback of the fencing along Lawrence Lane will be an additional thirty (30') feet from the road to the west which will be a total of fifty (50') feet from the road; that the re-installations will be without horizontal cross bars; that the re-installations above shall be installed with vertical posts of 8' and will be otherwise compliant with Section 5.226 of the Orangetown Code; and any vertical posts exceeding eight (8') feet on Ludlow Lane shall be cut or ground down and the requested variances for the present fencing installation as modified with the vertical posts on Ludlow Lane to eight (8') feet is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

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The foregoing resolution to approve the application for the requested front yard fence height variance as modified (on the Katz western boundary line the fencing will be setback 30' to the west; the setback on the Katz southern boundary will be set back twenty (20') feet to the south; that the setback of the fencing along Lawrence Lane will be an additional thirty (30') feet from the road to the west which will be a total of fifty (50') feet from the road; that the re-installations will be without horizontal cross bars; that the re-installations above shall be installed with vertical posts of eight (8') feet and will be otherwise compliant with Section 5.226 of the Orangetown Code; and any vertical posts exceeding eight (8') feet on Ludlow Lane shall be cut or ground down and the requested variances for the present fencing installation as modified with the vertical posts on Ludlow Lane to eight (8') feet is APPROVED; was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Feroldi, aye; Ms. Salomon, abstained because she was not present for first hearing; and Ms. Castelli, aye. Mr. Bosco 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: April 17, 2019

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERK'S OFFICE  
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TOWN OF ORANGETOWN

DECISION

**FRONT YARD FENCE HEIGHT VARIANCE APPROVED**

To: Kim Sullivan  
69 Closter Road  
Palisades, New York 10964

ZBA #19-35  
Date: April 17, 2019  
Permit #48489

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA # 19-35: Application of Kim Sullivan for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Section 5.226 (Front Yard Fence Height: 4 ½' permitted, 6' & 8' proposed) for an existing fence at an existing single-family residence. The premises are located at 69 Closter Road, Palisades, New York and are identified on the Orangetown Tax Map as Section 80.05, Block 1, Lot 17; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 17, 2019 at which time the Board made the determination hereinafter set forth.

Kim Sullivan appeared and testified.

The following documents were presented:

1. A letter dated February 21, 2019 from Kim Sullivan and Brett Ackerman to the Board.
2. Two e-mails dated October 9, 2018 and October 10, 2018 between Kim Sullivan and Elizabeth DeCort, Building Department with an attachment of Section 5.226 Fences and Walls from the Orangetown Code.
3. Five color pictures of the site.
4. A copy of the survey.

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: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye.

Ms. Sullivan testified that she was shocked when she got a violation for the fence because she thought she did everything right; that she spoke to the building department and attached e-mail correspondence to show that; that she thought she was following the instructions properly; that she did not realize that her side yard was part of the front yard; that she set the fence back fifteen (15') feet from the front yard and four (4') feet from the neighboring property; that they were not planning on constructing a fence; that the neighbor on that side of their property told them that he was going to remove a bush that may be on their property to landscape his own property and next thing the whole side of the yard was clear cut and afterward they found out that he had

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lot of their property; that they are going to live in the house full time and do not want to fight the neighbor so the peaceful solution was to put up a natural looking wood fence that would give them some privacy back; that they would appreciate the Board understanding that they need to keep the fence because it will take some time for the greenery to grow back; and they are planning on adding additional plantings.

Public Comment:

Linda Vezzetti, 58 Closter Road, Palisades, testified that Closter Road is one of the oldest roads in the County, that it is a winding country road; that the house looks abandoned; that it is so overgrown and horrible; that the fence looks terrible and it is ugly and it should be moved because you see it as soon as you go around the corner; and that she is across the street from it and its terrible and shrubbery should be planted.

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 fence height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant was given incorrect information from the Building Department and installed the fence in her side yard within the front yard setback. The applicant has agreed to install plantings for the first thirty-five (35') feet from the street line to screen the fence.
2. The requested front yard fence height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant was given incorrect information from the Building Department and installed the fence in her side yard within the front yard setback. The applicant has agreed to install plantings for the first thirty-five (35') feet from the street line to screen the fence.
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.

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4. The requested front yard fence height variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The applicant was given incorrect information from the Building Department and installed the fence in her side yard within the front yard setback. The applicant has agreed to install plantings for the first thirty-five (35') feet from the street line to screen the fence.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested front yard fence height variance is APPROVED with the Specific Condition that the applicant shall plant shrubbery for at least thirty-five feet (35') from the street line back to provide privacy between the properties; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested front yard fence height variance is APPROVED with the Specific Condition that the applicant shall plant shrubbery for at least thirty-five (35') feet from the street line back to provide privacy between the properties;; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco 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: April 17, 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  
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DECISION

**SECTION 5.21 UNDERSIZED LOT ACKNOWLEDGED: FLOOR AREA RATIO, LOT AREA, LOT WIDTH, FRONT YARD, SIDE YARD, TOTAL SIDE YARD, AND BUILDING HEIGHT VARIANCES APPROVED AS MODIFIED**

To: Andrew and Jessica Bocchino  
90 Secor Boulevard  
Pearl River, New York 10965

ZBA #19-36  
Date: April 17, 2019  
Permit #48443

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-36: Application of Andrew and Jessica Bocchino for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, (Section 5.21 Undersized lot applies) Section 3.12, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .254 proposed, .27 approved); 5 (Lot Area: 15,000 sq. ft. required, 10,126 sq. ft. existing); 6 ( Lot Width: 100' required, 83' existing); 8 (Front Yard: 30' required, 25.1' proposed); 9 (Side Yard: 15' required, 13.1' proposed); 10 (Total Side Yard: 30' required, 21.1' proposed); and 12 (Building Height: 20' permitted, 21' 7" proposed) for an addition to an existing single-family residence. The premises are located at 90 Secor Boulevard, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.05, Block 2, Lot 42 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 17, 2019 at which time the Board made the determination hereinafter set forth.

Andrew and Jessica Bocchino and Richie La Placa, Contractor, appeared and testified.

The following documents were presented:

1. Architectural plans dated 12/13/2018 with the latest revision date of 2/25/2019 not signed or sealed by JMA Architects. ( 1 page)

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; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

Andrew Bocchino testified that they would like to dormer out the back and raise the roof line so that they can add a bathroom upstairs and increase the ceiling height from 6 ½ feet to 7 ½ feet; that they also would like to convert the existing screened in porch to a full room with heat and a gabled roof so that it can become part of the house for year round use; and they really want to add a portico on the front door and the side door of the house; that presently they have a galley

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style kitchen; that in 2007 they got approval for a larger addition but did not have the money to build all of it; that they added just the two car garage and when they came back for this smaller addition they found out that they have a certificate of occupancy for the originally proposed addition from 2007; that this proposal is for less but they would like to ask if they could make a change tonight and increase the size of the dog house dormers to allow more ceiling height in the second floor and that this would increase the requested floor area ratio but would still be less than what they were granted in 2007; that in 2007 they were granted .28 floor area ratio and now with the changes to the dormers they would be around .27 floor area ratio.

Jessica Bocchino testified that her husband got his garage and now she needs more living space because since 2007 they have added two children to the family.

Richie La Placa, contractor, testified that the existing knee wall is four foot and increasing the width and depth of the doghouse dormer will provide more living space and it will increase the floor area ratio but it makes sense to add the additional headroom because it does not increase the cost of construction by that much.

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, lot area, lot width, front yard, side yard, total 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 Board acknowledged that the lot is an undersized lot per Section 5.21 of the Orangetown Code. The majority of the requested variances are for pre-existing non-conforming conditions. The applicant was granted variances for a larger addition than they are presently requesting; and the Board is allowing the applicant to submit new plans with larger dormers and a floor area ratio of 0.27 to be submitted for this application.

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2. The requested floor area ratio, lot area, lot width, front yard, side yard, total 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 Board acknowledged that the lot is an undersized lot per Section 5.21 of the Orangetown Code. The majority of the requested variances are for pre-existing non-conforming conditions. The applicant was granted variances for a larger addition than they are presently requesting; and the Board is allowing the applicant to submit new plans with larger dormers and a floor area ratio of 0.27 to be submitted for this application.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested floor area ratio, lot area, lot width, front yard, side yard, total 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 Board acknowledged that the lot is an undersized lot per Section 5.21 of the Orangetown Code. The majority of the requested variances are for pre-existing non-conforming conditions. The applicant was granted variances for a larger addition than they are presently requesting; and the Board is allowing the applicant to submit new plans with larger dormers and a floor area ratio of 0.27 to be submitted for this application.
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 **revised to .27**, lot area, lot width, front yard, side yard, total side yard and building height variances are APPROVED and the Undersized lot (Section 5.21) is acknowledged; 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 floor area ratio **revised to .27**, lot area, lot width, front yard, side yard, total side yard and building height variances are APPROVED and the Undersized lot (Section 5.21) is acknowledged; was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco 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: April 17, 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  
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MGMT. and ENGINEERING  
FILE,ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR

TOWN OF ORANGETOWN  
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TOWN CLERK'S OFFICE



DECISION

**SECTION 5.227 ACCESSORY STRUCTURE DISTANCE FROM LOT LINE  
VARIANCE APPROVED**

To: Mufson Landscaping (Teviot Investments)  
133 Piermont Road  
Norwood, New Jersey 07648

ZBA #19-37  
Date: April 17, 2019  
Permit #48489

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-37: Application of Teviot Investments' LLC for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Section 5.227 (Accessory structure location: 5' required from the lot line; 1' proposed) for a pergola, serving counter and trash receptacle at an existing single-family residence. The property is located at 35 Washington Springs Road, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.19, Block 1, Lot 9; in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 17, 2019 at which time the Board made the determination hereinafter set forth.

Alexandra Donate, Landscape Architect and Nat Mufson, owner Mufson Landscaping, appeared and testified.

The following documents were presented:

1. Plans labeled "Proposed Wall & Patio Plan" dated 07/25/2018 with the latest revision date of 12/6/2018 signed and sealed by Michael J. Hubschman, P.E. ( 6 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: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

Alexandra Donate, Landscape Architect, testified that they are before the Board for addendum to the previously approved variances; that they are requesting variances for the Pergola which is an open air arbor and may not require a variance to be placed one (1') foot from the side yard instead of the required five (5') feet; that they are installing a serving counter that will be constructed on natural; stone and granite and will not be movable and a trash receptacle container which is movable and all three items are proposed too close to the property line; that the movable trash receptacle will be located behind the existing stone wall with picket fence above; that the Pergola will be next to the existing stone wall along the property line; that the properties are not on the same elevation and therefore will not impose on the abutting property owner.

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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 Section 5.227 Accessory Structure distance from lot line variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant's property is well screened on the side of the requested variance and the location of the accessory structure will abut the proposed four (4') feet high fieldstone wall that creates a natural border between the properties.
2. The requested Section 5.227 Accessory Structure distance from lot line variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant's property is well screened on the side of the requested variance and the location of the accessory structure will abut the proposed four (4') feet high fieldstone wall that creates a natural border between the properties.
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 Section 5.227 Accessory Structure distance from lot line 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's property is well screened on the side of the requested variance and the location of the accessory structure will abut the proposed four (4') feet high fieldstone wall that creates a natural border between the properties.

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5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Section 5.227 Accessory Structure distance from lot line 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

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permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

The foregoing resolution to approve the application for the requested Section 5.227 Accessory Structure distance from lot line variance is APPROVED; was presented and moved by Mr. Feroldi, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco 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: April 17, 2019

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

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TOWN OF ORANGETOWN

DECISION

**SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED**

To: Ronald Posner  
4 Chapel Court  
Orangeburg, New York 10962

ZBA #19-38  
Date: April 17, 2019  
Permit #48586

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-38: Application of Ronald Posner for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 9 ( Side Yard: 20' required, 15.54' proposed) and 10 (Total Side Yard: 50' required, 47.29' proposed) for an existing deck at an existing single-family residence. The premises are located at 4 Chapel Court, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.14, Block 1, Lot 6; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 17, 2019 at which time the Board made the determination hereinafter set forth.

Daniel Koplowitz, Architect, and Ronald Posner appeared and testified.

The following documents were presented:

1. Architectural plans dated 02/18/ 2019 labeled "Existing Side Yard Deck Legalization- 4 Chapel Court, Orangeburg, NY" signed and sealed by Daniel Stuart Koplowitz, Architect.
2. ZBA Decision # 04-145 dated December 1, 2004.

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: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

Andrew Koplowitz, Architect, testified that the house belonged to his client's mother; that she passed away five years ago; that the deck was built 19 years ago; that the deck was not shown on the plans when the variance was granted in 2004; that they are before the Board to legalize the existing deck.

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 and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The existing side yard for the house is less than the requested variance for the existing deck and the requested total side yard variance is for the existing house.
2. The requested side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The existing side yard for the house is less than the requested variance for the existing deck and the requested total side yard variance is for the existing house.
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 and total side yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The existing side yard for the house is less than the requested variance for the existing deck and the requested total side yard variance is for the existing 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 side yard and total 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 side yard and total side yard variances are APPROVED; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco 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: April 17, 2019

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

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TOWN CLERK'S OFFICE

DECISION

**STREET FRONTAGE AND FRONT YARD VARIANCES APPROVED**

To: William Brodsky (Schneider)  
350 Boxberger Road  
Valley Cottage, New York 10989

ZBA #19-39  
Date: April 17, 2019  
Permit #N.A.

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-39: Application of Schneider Subdivision for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 7 (Street Frontage: 75' required, 35.44' proposed) and 8 (Front Yard: 30' required, 28.2' proposed) for a new house on a new single-family lot. The premises are located at 40 Van Wardt Place, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.15, Block 1, Lot 72; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 17, 2019 at which time the Board made the determination hereinafter set forth.

Bill Brodsky appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Schneider Sub-division Van Wardt Place Lot 1" dated 02/14/2019 signed and sealed by Barry Terach, Architect.
2. Survey labeled "Subdivision of Property for Schneider" dated 11/29/2018 with the latest revision date 07/07/2019 signed and sealed by Jay A. Greenwell, Land Surveyor.

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 February 13, 2019 (set forth in PB#19-09 for Schneider Minor Subdivision 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; Mr. Feroldi, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

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Bill Brodsky testified that he needs a street frontage and front yard variance for the new house; that they have already been before the Planning Board and received preliminary approval and a "neg dec"; that they pushed the house a little to the north as the Planning Board requested; and they have talked to the neighbors to the north and have agreed to clean up the swale area that is presently blocked by a large elm tree and debris; that they are cleaning up all the silt and adding stone headwall and a pipe for drainage; and that the neighbors are very happy with the plan.

Public Comment:

Larry Vail, 389 Kings Highway, Tappan, spoke as a representative of the Tappantown Historic Society, and testified that they have concerns about the granting of these variances and the creation of flag lots in the historic district; that this will create an undesirable change in the character of the neighborhood and Carol LaValle, President of the Tappan Historical Society objects to the plan as an abutting property owner on Main Street; that this is seen from her back yard and it is adding ten 10% percent more development to a dead end street.

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 street frontage and front yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. There are several other houses in the neighborhood with similar lots which required similar front yard and street frontage variances.
2. The requested street frontage and front yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There are several other houses in the neighborhood with similar lots which required similar front yard and street frontage variances.
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 street frontage and front yard variances, although somewhat substantial, afford benefits to the applicants that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. There are several other houses in the neighborhood with similar lots which required similar front yard and street frontage variances.
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 street frontage and front 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.

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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 street frontage and front yard variances are APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco 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: April 17, 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  
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BUILDING INSPECTOR-N.A.

TOWN CLERK  
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MGMT. and ENGINEERING  
FILE,ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR

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