

MINUTES
ZONING BOARD OF APPEALS
December 4, 2019

MEMBERS PRESENT: DAN SULLIVAN
MICHAEL BOSCO
THOMAS QUINN
JOAN SALOMON
PATRICIA CASTELLI

ABSENT: LEONARD FEROLDI, ALTERNATE

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

DORAN
76 Eimer Street
Tappan, NY
77.08 / 1 / 38; R-15 zone

SIDE YARD VARIANCE FOR POOL ZBA#19-106
REAR YARD FOR EXISTING DECK
APPROVED WITH SPECIFIC CONDITION

SMITH/KRIZ
76 Old Mountain Road
Upper Grandview, New York
71.05 / 1 / 26; R-22 zone

FLOOR AREA RATIO, UNDERSIZED ZBA#19-107
LOT SIDE YARD AND §5.221 UNROOFED
STEPS, TERRACES VARIANCES APPROVED

HOWE
89 Washington Avenue
Tappan, NY
77.06 / 2 / 15; R-15 zone

SIDE YARD, TOTAL SIDE YARD, ZBA#19-108
REAR YARD, §5.227 FOR SHED AND SPA
VARIANCES APPROVED

FITZSIMONS SUBDIVISION
315 Blauvelt Road
Pearl River, NY
69.09 / 5 / 75; R-15 zone

STREET FRONTAGE FOR LOT#2 ZBA#19-109
APPROVED

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LENNOX
39 West Lewis Avenue
Pearl River, NY
68.12 / 1 / 44; RG zone

FLOOR AREA RATIO,
SIDE YARD, AND BUILDING HEIGHT
VARIANCES APPROVED

ZBA#19-110

1 O'GRADY COURT
1 O'Grady Court
Orangeburg, New York
69.08 / 1 / 2.2; R-40 zone

§6.332 GRAVEL DRIVEWAY
VARIANCE APPROVED

ZBA#19-111

INSTRUMENTATION LABORATORY
PERFORMANCE STANDARDS
526 Route 303
Orangeburg, New York
70.19 / 1 / 45; LO zone

PERFORMANCE STANDARDS
APPROVED WITH SPECIFIC
CONDITIONS

ZBA19-112

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: Lander Subdivision Plan, 1 Duryea Place, Nanuet, NY 63.19 / 1 / 5; R-22 zone; Natelli Conservation Easement Relocation Plan, 230 Greenbush Road, Orangeburg, NY, 70.19 / 1 / 27; R-15; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

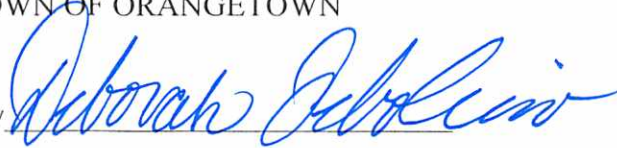
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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 9:30 P.M.

Dated: December 4, 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

SIDE YARD SWIMMING POOL VARIANCE APPROVED; REAR YARD VARIANCE FOR EXISTING DECK GRANTED BASED ON THE REVISED SURVEY THAT SHALL BE SUBMITTED PRIOR TO ISSUANCE OF BUILDING PERMIT

To: David and Leslie Doran
76 Eimer Street
Tappan, New York 10964

ZBA #19-106
Date: December 4, 2019
Permit #49428

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA # 19-106: Application of David and Leslie Doran for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 5.227 (**Rear Yard** CHANGED TO SIDE YARD ZBA DECISION #02-95 dated 10/16/2002 for a swimming pool: 20' required, 12' proposed) for an in-ground pool at an existing single-family residence. The premises are located at 76 Eimer Street, Tappan, New York and is identified on the Orangetown Tax Map as Section 77.08, Block 1, Lot 38; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 4, 2019 at which time the Board made the determination hereinafter set forth.

David and Leslie Doran appeared and testified.

The following documents were presented:

1. Map of property prepared by Westrock Pool dated 10/11/2019.
2. ZBA Decision #02-95 dated 10/16/2002.
3. Three letters from abutting property owners in support of the application.
4. A letter dated November 15, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated November 20, 2019 from the Rockland County Sewer District #1 signed by Joseph LaFinadra, Engineer II.
6. A letter dated December 2, 2019 from the Rockland County Department of Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by 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; and Ms. Castelli, aye. Mr. Feroldi was absent.

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David Doran testified that they would like to install an in-ground pool where they use to have an above-ground pool; that they would like the pool for family entertainment; that the right side of the house has electric and gas and full sun and this area is fenced in; that the back of house has a deck; that there are three other houses on the cul-de-sac the addition was done in 2006 and that is when the driveway was moved; and that they will get a revised survey showing the measurement of the existing deck to the rear yard.

Public Comment:

No public comment

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested **side yard** variance for a pool (Section 5.227) will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. A side yard variance for an above ground pool was granted in ZBA #02-95 dated 10/16/2002; this property has two front yards and at the time of the granting of the variance for the pool the west side of the property was assigned as the side yard and must remain a side yard; determining the south side of the property the rear yard. At the hearing it was discovered that the existing deck on the south side of the property shall require a rear yard variance. The applicant has agreed to submit an updated signed and sealed survey showing the measurements to the existing deck so that the existing rear yard condition can be properly identified and documented.
2. The requested **side yard** variance for a pool (Section 5.227) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Other houses in the neighborhood have pools with similar setbacks. A side yard variance for an above ground pool was granted in ZBA #02-95 dated 10/16/2002; this property has two front yards and at the time of the granting of the variance for the pool the west side of the property was assigned as the side yard and must remain a side yard; determining the south side of the property the rear yard. At the hearing it was discovered that the existing deck on the south side of the property shall require a rear yard variance. The applicant has agreed to

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submit an updated signed and sealed survey showing the measurements to the existing deck so that the existing rear yard condition can be properly identified and documented.

3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested **side yard** variance for a pool (Section 5.227), 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. A side yard variance for an above ground pool was granted in ZBA #02-95 dated 10/16/2002; this property has two front yards and at the time of the granting of the variance for the pool the west side of the property was assigned as the side yard and must remain a side yard; determining the south side of the property the rear yard. At the hearing it was discovered that the existing deck on the south side of the property shall require a rear yard variance. The applicant has agreed to submit an updated signed and sealed survey showing the measurements to the existing deck so that the existing rear yard condition can be properly identified and documented.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested **side yard** variance for a pool (Section 5.227) and rear yard variance for the existing deck 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.

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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 **side** yard variance for a pool (Section 5.227) and rear yard variance for the existing deck is APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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: December 4, 2019

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

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DECISION

**FLOOR AREA RATIO, UNDERSIZED LOT SIDE YARD, SECTION 5.221
UNROOFED STEPS OR TERRACES VARIANCES APPROVED**

To: Jeffrey Hall (Smith-Kriz)
251 West 102nd Street
New York, New York 10025

ZBA #19-107
Date: December 4, 2019
Permit # 48720

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-107: Application of Lucy Kriz and Thomas Smith for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Group I, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .21 proposed) and from Section 5.21 (b) (Undersize lot: Side Yard: 20' required, 16.4' and 16.1' existing) and from Section 5.221 (Unroofed steps or unroofed terraces not exceeding 16 sq. ft. not projecting more than 4 feet from the exterior wall of the building: projection of 8' from the south wall resulting in a 9'6" setback and a proposed square footage of 448 square feet and projection of 6' on the north wall resulting is a 9' 6" setback and a proposed square footage of 368 square feet) for an addition to an existing single-family residence. The premises are located at 76 Old Mountain Road, Upper Grandview, New York and is identified on the Orangetown Tax Map as Section 71.05, Block 1, Lot 26 in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 4, 2019 at which time the Board made the determination hereinafter set forth.

Jeffrey Hall, Architect, and Lucy Kris appeared and testified.

The following documents were presented:

1. Architectural plans dated March 28, 2019 signed and sealed by Jeffrey Hall R.A. T-1.1, S(1.1, D1.1, D1.2, A1.1, A1.2, A1.3, A1.4, A 2.1 & A2.2
2. Proposed Addition Land Survey for Kriz & Smith dated October 2, 2018 with the latest revision date of October 17, 2019 by Robert Sorace, PLS.
3. Letters dated July 12, 2019, October 8, 2019, & October 22, 2019 from Jane Slavin, R.A., Director O.B.Z.P.A.E., Town of Orangetown.
4. A letter dated November 13, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated November 20, 2019 from the Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
6. A letter dated December 2, 2019 from the Rockland County Department of Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
7. A letter dated October 29, 2019 from the Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.

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

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On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination 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 July 17, 2019 (as set forth in PB# 19-43 Smith-Kriz Site Plan) rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a “Negative Declarations” of “Neg Dec.”), the ZBA is bound by the Planning Board’s Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Ms. Salomon, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Bosco; aye.

Jeffrey Hall testified that the proposal is for a three story addition; that the lot is undersized; that the staircases are attached to the house; that they are moving rooms around within the house; that enclosed porch will become a mudroom and panty; that the first floor will be a recreation room; that the terraces are at grade level and they have a two foot wall around them that will serve as seating.

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, undersized lot side yard and §5.221 unroofed steps or terraces variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the neighborhood.

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2. The requested floor area ratio, undersized lot side yard and §5.221 unroofed steps or terraces variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio, undersized lot side yard and §5.221 unroofed steps or terraces 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. Similar additions have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

6. **DECISION:** In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested floor area ratio, undersized lot side yard and §5.221 unroofed steps or terraces variances are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested floor area ratio, undersized lot side yard and §5.221 unroofed steps or terraces variances are APPROVED; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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: December 4, 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
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MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

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DECISION

SIDE YARD, TOTAL SIDE YARD. REAR YARD. SECTION 5.227 SET BACK FOR A SHED AND HOT TUB VARIANCES APPROVED

To: John and Victoria Howe
89 Washington Avenue
Tappan, New York 10964

ZBA #19-108
Date: December 4, 2019
Permit #49402

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-108: Application of John and Victoria Howe for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-15 District, Group M, Columns 9 (Side Yard: 20' required, 7' & 15' proposed), 10 (Total Side Yard: 50' required, 22' proposed), 11 (Rear Yard: 35' required, 30.8' exists to deck) and from Section 5.227: (Shed setback: 5' required from rear and side yard: .9' and 1' existing) and from 5.227 setback for a HOT TUB DEEMED AN ACCESSORY STRUCTURE BY THE BOARD: 5' required, 2.2' existing to the hot tub) Premises are located at 89 Washington Avenue, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.06, Block 2, Lot 15; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 4, 2019 at which time the Board made the determination hereinafter set forth.

John and Victoria Howe appeared and testified.

The following documents were presented:

1. Survey dated December 8, 2019 with the latest revision date of 10/31/2019.
2. One letter in support of the application.

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; and Ms. Castelli, aye.

Victoria Howe testified that they purchased the house in February 2012 and that her uncle is a contractor and he did the work in the back yard for them; that they did not realize that he did not get permits for the work; that they have been trying to straighten everything out for about 1 ½ years and that is how they found out that they needed all of these variances; that they have pictures of the back yard to show the board and that the plans that were submitted are not from her uncle.

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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 side yard, total side yard, rear yard and Section 5.227 setback for shed and hot tub variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is undersized and the existing side yard is 6.6' and the existing total side yard for the house is 17.6'. Although these are relatively large variances that are being requested, they are all confined to within a fenced in rear yard.
2. The Board made the determination that the hot tub is not a pool and does not require a variance for a pool set back; that it is an accessory structure that could be 5' from the side and rear yard setback in the R-15 zoning district and granted the variance accordingly.
3. The requested side yard, total side yard, rear yard and Section 5.227 setback for shed and pool variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . The lot is undersized and the existing side yard is 6.6' and the existing total side yard for the house is 17.6'. Although these are relatively large variances that are being requested, they are all confined to within a fenced in rear yard.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
5. The requested side yard, total side yard, rear yard and Section 5.227 setback for shed and pool 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 lot is undersized and the existing side yard is 6.6' and the existing total side yard for the house is 17.6'. Although these are relatively large variances that are being requested, they are all confined to within a fenced in rear yard.

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

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested side yard, total side yard, rear yard and Section 5.227 setback for shed and hot tub variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

TOWN CLERK'S OFFICE

2019 DEC 10 A 11:17


TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard, total side yard, rear yard and Section 5.227 setback for shed and hot tub variances are APPROVED; was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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: December 4, 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 CLERK'S OFFICE
2019 DEC 10 A 11:17
TOWN OF ORANGETOWN

DECISION

STREET FRONTAGE VARIANCE APPROVED

To: Frank J. Phillips (Fitzsimons)
148 South Liberty Drive
Stony Point, New York 10980

ZBA #19-109
Date: December 4, 2019
Permit #N.A.

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-109: Application of Fitzsimons Subdivision for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-15 District, Group M, Column 7 (Street Frontage: 75' required, 20.34' proposed for lot #2) of a proposed two-lot residential subdivision. The premises are located at 315 Blauvelt Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.09, Block 5, Lot 75; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 4, 2019 at which time the Board made the determination hereinafter set forth.

Frank Phillips, Attorney, and Steven Fitzsimons appeared and testified.

The following documents were presented:

1. Plans labeled "Preliminary Plat Lot Subdivision for Fitzsimons" dated May 16, 2019 with the latest revision date of 10/15/2019 signed and sealed by Paul Gdanski, P.E.
2. A memorandum from Rockland County Department of Planning stating that the application is not in their jurisdiction.
3. A letter dated November 20, 2018 from the Rockland County Sewer District #1 signed by Joseph La Fiandra, Engineer II.
4. A letter dated December 2, 2019 from the Rockland County Health Department signed by Elizabeth Mello, P.E., Senior Public Health Engineer.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by 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 July 31, 2019 (as set forth in PB# 19-31 Fitzsimons 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; Ms. Salomon, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Bosco; aye.

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Frank Philips, Attorney for the applicant, testified that the application received preliminary approval and a neg dec from the Planning board on July 31, 2019; that they appeared before the Planning board three times and addressed the grading, perk tests, drainage concerns, hydrologic studies and were referred to the Zoning Board for the street frontage variance; that there are several other flag lots in the area; that the granting of the variance would not produce any adverse effect or impact on the neighborhood; and the granting of the variance would not change the character of the neighborhood.

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

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

General Conditions:

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

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

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

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

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

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

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: December 4, 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-N.A.

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

TOWN OF ORANGETOWN
2019 DEC 10 A 11:17
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DECISION

**FLOOR AREA RATIO, SIDE YARD, AND BUILDING HEIGHT VARIANCES
APPROVED**

To: William Lennox
47 West Carroll Street
Pearl River, New York 10965

ZBA #19-110
Date: December 4, 2019
Permit # 48525

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-110: Application of William Lennox for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, RG District, Group Q, Section 3.12, Columns 4 (Floor Area Ratio: .30 permitted, .2046 existing, .3202 proposed); 9 (Side Yard: 10' required, 5' existing, no change) and 12 (Building Height: 16.52' permitted, 23.2' proposed) for an addition to a single-family residence. The premises are located at 47 West Carroll Street, Pearl River, New York and is identified on the Orangetown Tax Map as Section 68.12, Block 1, Lot 38 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 4, 2019 at which time the Board made the determination hereinafter set forth.

William and Caitlin Lennox appeared and testified.

The following documents were presented:

1. Plans labeled "New Addition 47 West Carroll Street" signed and sealed by Robert Hoene, Architect dated 10/26/2011 with the latest revision date of 05/28/2019 (2 pages).
2. Plot signed and sealed by Robert Hoene, Architect, dated 9/17/2019 last revised 10/08/2019.
3. Land Survey for William Lennox dated May 3, 2019 last revised September 6, 2019 signed and sealed by Robert E. Sorace, P.L.S...
4. A letter dated November 13, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated November 20, 2019 from the Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
6. A letter dated December 2, 2019 from the Rockland County Department of Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.

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

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William Lennox testified that they are proposing to go out the back of the house and add a dining room and kitchen and a master bedroom above it; that the house is small; that they have a tiny sitting area and a living room and really small kitchen downstairs and one bedroom upstairs; that they want to use the enclosed porch area to add stairs to the second floor because the stairs are so steep; and they will end up with a height of 23.2'.

Public Comment:

Michael McCue, 21 West Lewis Avenue, testified that he is the neighbor directly across the street; that Bill and Caitlin are wonderful neighbors; that he is in favor of the project and seeing them in a house that fits their needs.

Joseph Geppar, 57 West Carrol Street, testified that his house is two house up the street from the applicant; that the house was a rental house for many years and was not kept nice; that since they purchased the house they have made it beautiful; that they are very good neighbors that always helping everyone and that he is in support of the application.

Robert Capello, 19 West Lewis Avenue, testified that he lives diagonal from the applicants; that Bill and Caitlin are wonderful neighbors and they have made a nice impact on the neighborhood and he is in support of the application.

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, side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Three neighbors came out and spoke in support of the application and similar additions have been constructed in the neighborhood.
2. The requested floor area ratio, 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. Three neighbors came out and spoke in support of the application and similar additions have been constructed in the neighborhood.

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3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio, side yard and 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. Three neighbors came out and spoke in support of the application and similar additions have been constructed in the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

General Conditions:

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

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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 floor area ratio, side yard and building height variances are APPROVED; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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: December 4, 2019

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2019 DEC 10 A 11:18
TOWN CLERK'S OFFICE

DECISION

SECTION 6.332 GRAVEL/STONE DRIVEWAY VARIANCE APPROVED: PAVER PORTION OF DRIVEWAY DOES NOT REQUIRE A VARIANCE; PAVERS ARE EQUIVALENT TO ASPHALT

To: William Bosley (1 O'Grady Ct.)
10 Sugarhill Road
Nyack, New York 10960

ZBA #19-111
Date: December 4, 2019
Permit #43858

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-111: Application of 1 O'Grady Court for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-40 District, Section 6.332: (Driveways of single or two family residences shall be installed with at least three inches of binder mix with a top wearing course of 1 1/2 inches of fine mix asphalt: decorative gravel exists) for a driveway at an existing single-family residence. The premises are located at 1 O'Grady Court, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 69.08, Block 1, Lot 2.2 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 4, 2019 at which time the Board made the determination hereinafter set forth.

William Bosley, Contractor, appeared and testified.

The following documents were presented:

1. Plans drawn by William Bosley dated 10/24/2019.
2. A letter dated November 15, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated November 20, 2019 from the Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.

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; and Ms. Castelli, aye.

William Bosley testified that this is one of the new houses that he and his brother built and they have pavers for the first 85' of the driveway and they have decorative gravel outside the garage doors and he was sent for a variance because of the gravel but was also told that the next new house that he is building with a paver driveway will need a variance from the same section of the code because it is not asphalt; and he would appreciate it if the Board commented on that.

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 Section 6.332 gravel/stone driveway variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Other houses in the area have paver driveways, the gravel at the top by the garage is the reason this house needs a variance from Section 6.332; the paver portion of the driveway is equivalent to an asphalt driveway.
2. The requested Section 6.332 gravel/stone driveway variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Other houses in the immediate area have paver driveways, the gravel at the top by the garage is the reason this house needs a variance from Section 6.332; the paver portion of the driveway is equivalent to an asphalt driveway.
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 6.332 gravel/stone driveway 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. . Other houses in the immediate area have paver driveways, the gravel at the top by the garage is the reason this house needs a variance from Section 6.332; the paver portion of the driveway is equivalent to an asphalt driveway.
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 Section 6.332 gravel/stone driveway variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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The foregoing resolution to approve the application for the requested Section 6.332 gravel/stone driveway variance is APPROVED; was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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: December 4, 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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TOWN CLERK'S OFFICE

DECISION

CONFORMANCE TO TOWN PERFORMANCE STANDARDS ACCEPTED WITH CONDITIONS

To: Donald Brenner (Instrumentation Labs)
4 Independence Avenue
Tappan, New York 10983

ZBA #19-112
Date: December 4, 2019
Permit # 48870

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-112: Application of Instrumentation Laboratory requesting the Zoning Board of Appeals' review, and determination, of conformance with the Town of Orangetown Zoning Code (Orangetown Code Chapter 43) Section 4.12 Performance Standards review of in-vitro diagnostics reagents and controls and expansion of the existing building. The premises are located at 526 Route 303, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 70.19, Block 1, Lot 45 in the LO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 4, 2019 at which time the Board made the determination hereinafter set forth.

Donald Benner, Attorney, Randy Vlasak, Senior Plant Engineering Manager, and Robert Walsh, P.E., appeared and testified.

The following documents were presented:

1. Instrumentation laboratory building & parking site plan dated April 10, 2019 last revised August 23, 2019 signed and sealed by Robert E. Walsh P.E. T01, C01,C02,C03C04,C05,C06,C07,C08,C09.
2. Instrumentation Laboratory First Floor Plan A11 dated May 29, 2019 last revised Sept. 11, 2019; Second Floor Plan, same dates; Building Elevations, same dates; signed and sealed by Richard F. Basta, N.Y.S. Licensed Architect.
3. Safety Data Sheets (38 pages).
4. Instrumentation Laboratory Raw Material Chemical Inventory and Classification (6 pages).
5. Short Environmental assessment Form Part 1 and 2.
6. Hazardous Materials Certificate of Registration for years 2019 -2022.
7. Town of Orangetown Department of Environmental Management and Engineering Industrial Wastewater Permit NO.2019-004 signed by Michael Weber, Chief Plant Operator dated December 24, 2018.
8. New York State Department of Environmental Conservation resource screening dated January 9, 2019 signed by Michael Grosso, Division of Environmental Permits Region 3.
9. Standard Operating Procedures Instrumentation Laboratory Orangeburg Air Emission ID System.
10. Resume of Operations (15 pages).
11. Memorandum dated December 3, 2019 from Eamon Reilly, P.E., Commissioner, Department of Environmental Management and Engineering, Town of Orangetown.

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12. Memorandum dated December 2, 2019 from Michael Weber, Industrial Treatment Coordinator, Department of Environmental Management and Engineering, Town of Orangetown with one page attachment.
13. Memorandum dated November 27, 2019 from Dylan Hofsis, Junior Public Health Engineer and Zoning Enforcement Officer, Department of Environmental Management and Engineering, Town of Orangetown.
14. A memorandum dated November 26, 2019 from Bruce Peters, Engineer III, Department of Environmental Management and Engineering, Town of Orangetown with a letter dated July 10, 2019 addressed to the Planning board attached.
15. A memorandum dated November 27, 2019 from Michael Bettmann, Chief Fire Safety Inspector, Town of Orangetown.
16. A letter dated November 15, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
17. A letter dated November 20, 2019 from the Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
18. A letter dated December 2, 2019 from Rockland County Department of Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
19. Thirteen pages of the Premier Brands of America Inc. introduction to the company packet.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination, 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 seeks a Performance Standards Review for a proposed expansion to the technology center Hemostasis and blood gas reagents business in a zoned LO lot, the application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.6 (c) (25) and /or (34); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

Donald Brenner, Attorney, testified that the application received a preliminary approval and a neg dec a few weeks ago; that they were before this Board for variances for the building a short time ago; that he spoke Mr. Eamon Reilly and he said that there would be no problem with the approval with conditions of answering their questions prior to issuance of permit and that the County read the plans wrong the building is two story.

Randy Vlasak, Senior Plant Engineering Manager handed out papers labeled "Expansion Project Overview" and explained that the company has been opened and operating since 1959 and in Orangeburg since 1989 and with Werfren since 1991; that they run 1.1 million patient samples using their products every day; that they are expanding because of their continued growth but will continue with the same operation that has been reviewed by the Board three years ago; that they are not adding cooling towers, that there will be new plumbing and air for the addition and they are removing one of the existing three generators (30kw) and replacing it with a 60kw

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The Board reviewed the Performance Standards and Fire Supplement forms.

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 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 December 2, 2019 from Michael Weber, Chief Operator and Bruce Peters, Engineer III, memo dated November 26, 2019 & July 10, 2019, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); memo dated November 27, 2019, from Dylan Hofsiss, Junior Public Health Engineer and Zoning Enforcement Officer, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the Memorandum dated December 3, 2019 from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated November 27, 2019 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); Rockland County Department of Planning dated November 15, 2019 signed by Douglas J. Schuetz, Acting Commissioner of Planning; the other documents submitted to the Board, and the testimony of Applicant's representatives, the Board finds and concludes that the application conforms with the Performance Standards set forth in Zoning Code Section 4.1, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., B.F.P., and all other departments having jurisdiction of the premises.

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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 that the Applicant: (1) Submit a revised Resume of Operations that complies with the comments contained in: (2) memo dated December 2, 2019 from Michael Weber, Chief Operator and Bruce Peters, Engineer III, memo dated November 26, 2019, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (3) memo dated November 27, 2019, from Dylan Hofsiss, Junior Public Health Engineer and Zoning Enforcement Officer, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (4) the Memorandum dated December 3, 2019, from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (5) the report dated November 27, 2019 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P); Rockland County Planning letter dated November 15, 2019 signed by Douglas J. Schuetz, Acting Commissioner of Planning; AND FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance, Performance Standards Conformance, or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance, Performance Standards Conformance, or Special Permit by the Board is limited to the specific variance, Performance Standards Conformance, or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any Performance Standards Conformance, variances, or Special Permit being requested.

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

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


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The foregoing Resolution, to approve the application for the requested conformance to Performance Standards with the following conditions that the applicant: (1) memo dated December 2, 2019 from Michael Weber, Chief Operator and Bruce Peters, Engineer III, memo dated November 26, 2019, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (3) memo dated November 27, 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 Memorandum dated December 3, 2019, from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (5) the report dated November 27, 2019 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P); Rockland County Planning letter dated November 15, 2019 signed by Douglas J. Schuetz, Acting Commissioner of Planning; was presented and moved by Mr. Sullivan, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye, Ms. Salomon, aye, and Ms. Castelli, aye.

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: December 4, 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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