

MINUTES  
ZONING BOARD OF APPEALS  
JANUARY 2, 2019

MEMBERS PRESENT:

DAN SULLIVAN  
THOMAS QUINN  
JOAN SALOMON  
PATRICIA CASTELLI,  
MICHAEL BOSCO  
LEONARD FEROLDI, ALTERNATE

ABSENT: NONE

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 ITEM:

IMPERIAL SPORTS  
RENEWAL OF SPECIAL PERMIT  
64 Route 303  
Tappan, NY  
77.15/ 1 / 42; CS zone

SPECIAL PERMIT ZBA#18-90  
GRANTED WITH EXTENDED  
HOURS OF OPERATION FOR FIVE YEARS  
FROM ISSUANCE OF NEW CERTIFICATE OF  
OCCUAPNCY SUBJECT TO CONDITIONS

NEW ITEMS:

DIONNES'S WAY  
ZBA#19-01  
12-16 North Main Street  
Pearl River, New York  
68.16 / 6 / 67; PAC zone

CONTINUED

30 ROCKLAND PARK AVENUE  
30 Rockland Park Avenue  
Tappan, New York  
77.16 / 1 / 33; LIO zone

SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED ZBA#19-02

GRACE  
226 Newport Avenue  
Tappan, New York  
74.17 / 3 / 24; R-15 zone

FLOOR AREA RATIO VARIANCE APPROVED ZBA#19-03

TOWN CLERK'S OFFICE  
2019 JAN 22 A 10:49  
TOWN OF CLAMMINGTON

O'CONNELL  
294 Laurel Road  
Pearl River, New York  
68.11 / 2 / 53; R-15 zone

SIDE YARD VARIANCE  
APPROVED

ZBA#19-04

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: BCH Realty LLC- Concaro, LLC: Minor Subdivision Plan Review and Site Plan Review, 20 Mountainview Avenue, Orangeburg, NY, 74.07 / 1 / 27; in the LI and CC zoning districts; 290 South Boulevard Site Pan, Critical Environmental Area, 288 South Boulevard, Upper Grandview (Nyack) NY, 71.05 / 1 / 24; R-22; The Filling Station, 243 Route 9W, Palisades, NY , 78.18 / 1 / 2; R-80 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 9:20 P.M.

Dated: January 2, 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

TOWN CLERK'S OFFICE  
2019 JAN 22 A 10:48  
TOWN OF ORANGETOWN

DECISION

**RENEWAL OF SPECIAL PERMIT APPROVED AS AMENDED FOR FIVE (5) YEARS**

To: Daniel Kim (Imperial Sports)  
7 Bethany Circle  
Closter, New Jersey 07624

ZBA #18-90  
Date: December 5, 2018 & January 2, 2019  
Permit # N.A.

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-90: Application of Imperial Sports for a Renewal of a Special Permit from Zoning Code (Chapter 43) of the Town of Orangetown Code, CS District, Section 3.11, Column 3 #8 (Other retail /Services: Karaoke Room and Kitchen) which has been in existence since 11/01/2016 and the applicant is requesting a renewal as required by Certificate of Occupancy #41860. The premises are located at 64 Route 303, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.15, Block 1, Lot 42; in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, December 5, 2018 and January 2, 2019 at which time the Board made the determination hereinafter set forth.

On December 5, 2018 Daniel Kim Attorney and Adrian Linn, owner, appeared and testified.

The following documents were presented:

1. Plans by Se Hwan Kim, Architect dated 10/25/2009: A.01 Proposed Plan Opt A Imperial Sports One, G.03 Egress Plan Imperial Sports One; G.02 Site Plan and Building Information Imperial Sports One.
2. Certificate of Occupancy dated 11/01/2016 issued as per ZBA Decision #13-48.
3. Zoning Board of Appeals Decision #13-48 dated June 19, 2013.
4. A letter dated November 26, 2018 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated November 29, 2018 from the Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
6. A sign off dated December 4, 2018 from Elizabeth Mello, Rockland County Department of Health.
7. A sign off dated October 29, 2018 from Dyan Rajashinghan, Rockland County Highway Department.

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

At the December 5, 2018 meeting Daniel Kim, Attorney for Imperial Sports, testified that they would like to renew the Special Permit and expand their hours of operation; that they would like to be able to stay open until 4 a.m. because a lot of their business is coming in after 11:00 p.m. and they are presently restricted to close at midnight on weekdays and 1:00 a.m. on weekends; that they are losing business because of these hours and they cannot compete with other similar businesses that are open longer; that the karaoke rooms are self-contained sound proof rooms and no noise filters outside and they also wanted to ask for the special permit to be granted for five or ten years; and that they would request a continuance so that they can provide

TOWN CLERK'S OFFICE  
2018 JAN 22 10 05 AM  
TOWN OF ORANGETOWN

the requested parking calculations and repost and publish with the requested longer hours of operation.

January 2, 2019

The following item was submitted for review:

1. Parking Lot Improvement Plan prepared for Elias Tsionis and George Tzoulafis dated September 4, 2013 with the latest revision date of 06/18/2015 signed and sealed by James A. Feury, P.W.

Board members present:

Mr. Bosco, Ms. Salomon, Mr. Sullivan, Mr. Quinn, Mr. Feroldi, and Ms. Castelli .

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, based upon the testimony heard by this Board, and the facts as presented in the application submissions and in the record, since application ZBA #18-90 seeks area or bulk variances for construction of a primary or accessory/appurtenant non-residential structure or facility involving less than 4,000 sq. ft. of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, and seeks the renewal of a special permit for a Pool Hall and Karaoke Hall not to exceed five years from date hereof, in a zoned CS (Commercial Shopping) lot located at 64 Route 303, Tappan, New York this application is exempt from environmental review under the State Environmental Quality Review Act pursuant to SEQRA Regulation §617.4 (c)(7); Mr. Sullivan moved for a Board determination that the foregoing application is exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (7); 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.

Daniel Kim, Attorney for Imperial Sports, testified that they have submitted the parking plan; that they have never had a problem with parking for their facility; that they would like to ask permission to extend the hours of operation to 2 A.M. every night and to request that the Special Permit be issued for five years.

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.

TOPIC OF DISCUSSION  
2019 JAN 22 10:00 AM  
TOPIC OF DISCUSSION

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 Special Permit will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The special permit is being granted for five-years from the date of issuance of the certificate of occupancy with hours of operation limited until 2 A.M. weekdays and Friday and Saturday nights.
2. The applicant has provided a parking table on the site plan and illustrate sufficient parking is being provided for the additional uses.
3. The requested Special Permit as conditioned will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The special permit is being granted for five-years from the date of issuance of the certificate of occupancy with hours of operation limited until 2 A.M. weekdays and Friday and Saturday nights.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a special permit.
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 special permit.
6. The proposed use will be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities.

APPROVED AND FORWARDED:  
2018 JUN 22 10:49 AM  
TOWN OF ORANGETOWN

7. The proposed use will not cause undue traffic congestion or create a traffic hazard and will not create at any point of determination set forth in §§4.16, 4.17 & 4.18 any more dangerous and objectionable elements referred to in §4.11 than is characteristic of the uses expressly permitted as of right in the same district.
8. The proposed use will not adversely affect the character of or property values in the area and it will not otherwise impair the public health, safety, morals, convenience, comfort, prosperity and other aspects of the general welfare of the town.
9. The proposed use will comply with all other regulations applicable to such use and the drainage for the site will not be affected by the issuance of the Special Permit.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested Renewal and Extension of time for the Special Permit is **APPROVED** for FIVE YEARS from the date of issuance of the certificate of occupancy with the Specific Conditions that (1) the hours of operation are limited to 12:00 noon to 2 A.M. weekdays and Friday and Saturday nights; and (2) a parking table has been provided on the site plan and illustrate sufficient parking is being provided for the additional uses; 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.

BOBBI GARDNER, CHAIR  
LARRY G. GARDNER, CLERK  
ZONING AND PLANNING DEPARTMENT

(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 Renewal and extension of time for the Special Permit is APPROVED for FIVE YEARS from the date of issuance of the certificate of occupancy with the Specific Conditions that (1) the hours of operation are limited to 12:00 noon to 2 A.M. weekdays and Friday and Saturday nights; and (2) a parking table has been provided on the site plan and illustrate sufficient parking is being provided for the additional uses;; 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: January 2, 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  
DEPT. of ENVIRONMENTAL  
MGMT. and ENGINEERING  
FILE,ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR

TOWN CLERK'S OFFICE  
2019 JAN 22 A 10:49  
TOWN OF ORANGETOWN

## DECISION

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

To: Donald Brenner (Pulmuone Foods)  
4 Independence Avenue  
Tappan, New York 10983

ZBA #19-02  
Date: January 2, 2019  
Permit #47553

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-02: Application of 30 Rockland Park Avenue Site Plan for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, LIO, District, Section 3.12, Group CC, Columns 9 (Side Yard: 100' required, 37.46' proposed) and 10 (Total Side Yard: 200' required, 87.36' proposed) for concrete pads and shed addition. The property is located at 30 Rockland Park Avenue, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.16, Block 1, Lot 33; in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 2, 2019 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Seong Kim, Director of Operations Engineer, Hoojoon Chung, Architect, Chang Sue Hwang, Plant Manager and Christine Lee, employee, appeared and testified.

The following documents were presented:

1. Architectural plans labeled " Pulmuone@ New York" Shed Addition (1,180 SF) for 3 Containers ( 4 pages) dated 09/21/2018 signed and sealed by Hojoon Chung, Architect.
2. A letter dated December 24, 2018 from the Rockland County Drainage Agency signed by Vincent Altieri, Executive Director.
3. A letter dated January 2, 2019 from the Rockland County Department of Planning signed by Douglas Schuetz, Acting Commissioner of Planning.
4. A letter dated December 27, 2018 from the Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
5. A letter dated December 28, 2018 from the Rockland County Center for Environmental 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 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 October 24, 2018 (set forth in PB#18-26for ROCKLAND PARK ROAD (SHOWN IN THE DECISION AS "ROAD") SITE PLAN/ PULMONE FOOD USA) rendered environmental

PLANNING BOARD  
TOWN OF ORANGETOWN  
JAN 2 2019



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. Castelli, aye; Mr. Sullivan, aye; Mr. Bosco, aye; and Ms. Salomon, aye.

Donald Brenner, Attorney, testified that the reason the applicant is before the Board is because they were in violation for a spill on their site; that they had a box outside with organic waste in it and it leaked into the Sparkill Creek; that they are trying to correct the violation and are working with the DEC and the Town DEME to correct the problem; that they are proposing to place two large dumpsters on a new concrete slab with a shed covering around it; that these will be constructed at the side of the building and will be 30’ x 40’ that they produce tofu at the facility and the waste is organic waste from the process and is liquid soy milk; that the dumpsters are emptied every day or every other day; that they are asking to enclose them to prevent another spill; that the product is conveyed by a vacuum system; that the walls will be 2 to 14 feet high and there is a roof over the structure; and that they are waiting to hear back from Bruce Peters, Engineer, DEME about the need for floor drains and when he says what design he wants they will update the slab design.

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 (100’ required, and 37.46’ proposed) and total side yard (200’ required and 87.36’ proposed) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The dumpsters being enclosed will be more attractive and having a roof over the dumpsters will protect the environment.

TOWN OF ORANGETOWN  
2019 JAN 22 A 10:45  
TOWN CLERK'S OFFICE

2. The requested side yard (100' required, and 37.46' proposed) and total side yard (200' required and 87.36' proposed) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The dumpsters being enclosed will be more attractive and having a roof over the dumpsters will protect the environment.
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 (100' required, and 37.46' proposed) and total side yard (200' required and 87.36' proposed) 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 dumpsters being enclosed will be more attractive and having a roof over the dumpsters will protect the environment.
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 (100' required, and 37.46' proposed) and total side yard (200' required and 87.36' proposed) 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.

TOWN CLERK'S OFFICE  
2019 JAN 22 A 10:49  
TOWN OF ORANGETOWN

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

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

The foregoing resolution to approve the application for the requested side yard (100' required, and 37.46' proposed) and total side yard (200' required and 87.36' proposed) variances are APPROVED; was presented and moved by Ms. Castelli, 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: January 2, 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 JAN 22 A 10:49  
TOWN OF ORANGETOWN

DECISION

**FLOOR AREA RATIO VARIANCE APPROVED**

To: Patrick and Kimberly Grace  
226 Newport Avenue  
Tappan, New York 10983

ZBA #19-03  
Date: January 2, 2019  
Permit #48229

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-03: Application of Patrick and Kimberly Grace for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15, District, Section 3.12, Group M, Column 4 (Floor Area Ratio: .20 permitted, .2536 proposed) for a sunroom addition to an existing single family residence. The property is located at 226 Newport Avenue, Tappan, New York and are identified on the Orangetown Tax Map as Section 74.17, Block 3, Lot 24; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 2, 2019 at which time the Board made the determination hereinafter set forth.

Patrick and Kimberly Grace appeared and testified.

The following documents were presented:

1. Architectural plans dated 09/14/2018 signed and sealed by Richard A. Bouchard, Architect, (2 pages).

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye.

Kimberly Grace testified that they have owned the house since 2000; that they are proposing to ass a screened in porch over the existing patio area in the rear of the house; that they will have door at either end of the screened in porch; and that they will access the porch from the rear of the house.

Public Comment:

No public comment

TOWN OF ORANGETOWN  
ZONING BOARD OF APPEALS  
2019 JAN 22 AM 10:13  
TOWN CLERK'S OFFICE

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested floor area ratio (0.20 permitted, and 0.2536 proposed) variance 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 area.
2. The requested floor area ratio (0.20 permitted, and 0.2536 proposed) variance 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 area.
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 (0.20 permitted, and 0.2536 proposed) 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. 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.

TOWN OF ORANGETOWN  
ZONING BOARD OF APPEALS  
JULY 22, 2019  
10:00 AM

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested floor area ratio (0.20 permitted, and 0.2536 proposed) 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.


10/15/19 3:45 PM  
10/15/19 3:45 PM  
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested floor area ratio (0.20 permitted, and 0.2536 proposed) variance is 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: January 2, 2019

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN  
2019 JAN 22 A 10:49  
TOWN CLERK'S OFFICE

DECISION

**SIDE YARD VARIANCE APPROVED**

To: Jeremiah O'Connell  
294 Laurel Road  
Pearl River, NY 10965

ZBA #19-04  
Date: January 2, 2019  
Permit #48335

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-04: Application of Jeremiah O'Connell for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15, District, Section 3.12, Group M, Column 9 (Side Yard: 20' required, 6.6' proposed & existing) for an existing deck at an existing single family residence. (This property has a certificate of occupancy for a single family residence and a single family cottage) The property is located at 294 Laurel Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.11, Block 2, Lot 52; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 2, 2019 at which time the Board made the determination hereinafter set forth.

Jeremiah and Celine O'Connell appeared and testified.

The following documents were presented:

1. Survey with the deck location on it dated February 23, 2000 with the latest revision date of November 8, 2018 signed and sealed by Robert E. Sorace, PLS.
2. Drawing of proposed deck.
3. Certificate of Occupancy dated April 15, 1985 for an existing one-family residence and a one-family cottage.
4. Zoning Board of Appeals Decision #84-48 dated October 17, 1984.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye.

Jeremiah O'Connell testified that he built the deck in 2004 without a permit; that he got a permit for the garage in 2009; that they are in the process of selling the house and need to get a certificate of occupancy for the existing deck and that is when they found out that they needed a variance for the deck; and that is how they ended up here.

ROBERT E. SORACE  
PLS  
2019



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 (20' required,, 6.6' proposed & existing) variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
2. The requested side yard (20' required,, 6.6' proposed & existing) variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
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 (20' required,, 6.6' proposed & existing) 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.
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.

ORANGE COUNTY BOARD OF APPEALS  
1000 W. 20th Ave  
ORANGE, FL 32767

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested side yard(20' required,, 6.6' proposed & existing) 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.

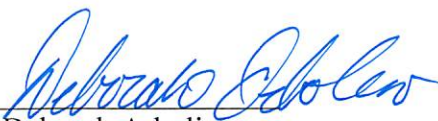
APPROVED AND FORWARDED:  
TOWN OF ORANGETOWN  
ZONING BOARD

The foregoing resolution to approve the application for the requested side yard (20' required,, 6.6' proposed & existing) variance 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: January 2, 2019

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

TOWN CLERK'S OFFICE  
2019 JAN 22 A 10:50  
TOWN OF ORANGETOWN