

MINUTES
ZONING BOARD OF APPEALS
January 8, 2020

MEMBERS PRESENT: MICHAEL BOSCO
 THOMAS QUINN
 PATRICIA CASTELLI

ABSENT: DAN SULLIVAN

ALSO PRESENT: Anne 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 Ms. Castelli, Acting Chairperson. 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:

WEST LEWIS MINOR SUBDIVISION PLAN 39 West Lewis Avenue Pearl River, NY 68.12 / 1 / 44; RG zone	POSTPONED	ZBA#19-103
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NEW ITEMS:

HENNESSEY 15 Hilltop Drive Pearl River, NY 69.17 / 1 / 89; R-15 zone	FLOOR AREA RATIO, FRONT YARD, SIDE YARD, TOTAL SIDE YARD, REAR YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#20-01
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MERCADO 197 Leber Road Blauvelt, New York 70.06 / 1 / 13; R-15 zone	TOTAL SIDE YARD VARIANCE APPROVED	ZBA#20-02
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SOFT CLOTH CARWASH 558 North Middletown Road Pearl River, NY 64.17 / 1 / 77; CO zone	POSTPONED	ZBA#20-03
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OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application: 89 Western Highway Playground Site Plan (Noble 9th German Masonic Park), 89 Western Highway, Tappan, NY 77.06 / 3 / 13; R-15 zone; Hyun Site Plan, Critical Environmental Area, 161 Tweed Boulevard, Upper Grandview, NY, 75.09 / 1 / 3; R-22 zone; Linen Choice Site Plan Amendment to PB#18-10, 57 North Troop Road, Blauvelt, NY, 70.18 / 2 / 17; LI zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:00 P.M.

Dated: January 8, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By *Deborah Arbolino*

Deborah Arbolino, Administrative Aide

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

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DECISION

FLOOR AREA RATIO, FRONT YARD, SIDE YARD, TOTAL SIDE YARD, REAR YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Jim Hennessey
15 Hilltop Drive
Pearl River, New York 10965

ZBA #20-01
Date: January 8, 2020
Permit #48969

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-01: Application of Jim Hennessey for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: 20% permitted, 44.7% existing, 51.2% proposed), 8 (Front Yard: 30' required, 27.3' proposed) and 9 (Side Yard: 20' required, 18.1' and 16.9' proposed), 10 (Total Side Yard: 50' required, 35' proposed), 11 (Rear Yard: 35' required, 25.5' proposed) and 12 (Building Height: 20' permitted, 25.5' proposed), for an addition to an existing single-family residence. The premises are located at 15 Hilltop Drive, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.17, Block 1, Lot 89 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 8, 2020 at which time the Board made the determination hereinafter set forth.

Jim Hennessey appeared and testified.

The following documents were presented:

1. Plans labeled "Hennessey Residence" dated June 6, 2019 with the latest revision date of 10/8/2019 signed and sealed by Claus F. Rademacher, Architect. (2 pages)
2. Zoning Board Decision #06-104 dated 10 / 4 /2006.
3. Four color pictures of rooms in the house.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli, Acting Chair 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 Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

Jim Hennessey testified that he did get variances in 2006; that he back again because the family is getting bigger; that they have a very small kitchen and dining room and that his daughter's bedroom is larger than his son's bedroom and they are trying to get more living space and a larger bedroom for his son; that the lot is undersized and the they are adding a larger front stoop

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to the house and the house does not sit straight on the lot and the rear corner is causing the need for one of the variances; that the first addition that they did was larger than this proposal; that they have been in the house for twenty years and the kids are nine and eleven; that they have proposed the screened in porch because there is a problem with mosquitos; and that the numbers from the first variance request might have been wrong.

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.

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio, front yard, side yard, total side yard, rear yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. ZBA# 06-104 granted variances for the first addition that was constructed for a two car garage and a master bedroom suite above it, that the floor area ratio numbers were not calculated correctly and the numbers presented at the hearing tonight are correct. Other houses in the area have similar additions.
2. The requested floor area ratio, front yard, side yard, total side yard, rear yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . ZBA# 06-104 granted variances for the first addition that was constructed for a two car garage and a master bedroom suite above it, that the floor area ratio numbers were not calculated correctly and the numbers presented at the hearing tonight are correct. Other houses in the area have similar additions.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.

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4. The requested floor area ratio, front yard, side yard, total side yard, rear yard and building height variances, although 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. . ZBA# 06-104 granted variances for the first addition that was constructed for a two car garage and a master bedroom suite above it, that the floor area ratio numbers were not calculated correctly and the numbers presented at the hearing tonight are correct. Other houses in the area have similar additions.
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, front yard, side yard, total side yard, rear 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, front yard, side yard, total side yard, rear yard and building height variances are APPROVED; was presented and moved by Mr. Bosco, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: January 8, 2020

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

TOTAL SIDE YARD VARIANCE APPROVED

To: Maria Mercado
197 Leber Road
Orangeburg, New York 10962

ZBA #20-02
Date: January 8, 2020
Permit #47864

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-02: Application of Maria Mercado for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 10 (Total Side Yard: 50' required, 48.4' proposed) for an addition to an existing single-family residence. The premises are located at 197 Leber Road, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 70.06, Block 1, Lot 13 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 8, 2020 at which time the Board made the determination hereinafter set forth.

Wilfredo Mercado and Jesse Tomelden, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "As-built Ms. Maria B. Mercado Living Room Extension" dated October 12, 2019 signed, not sealed by Lamberto S. Santos. (4 pages)
2. Survey dated October 20, 2018 signed by John R. Atzl, PLS.
3. A letter dated December 9, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated January 6, 2020 from the Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
5. A letter dated December 30, 2019 from the Rockland County Health Department signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
6. A letter dated November 18, 2019 from the Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli, Acting Chair 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 Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

Wilfredo Mercado, son of Maria Mercado, testified that his mom has been ill and that he is representing her; that the two-story addition to the house had existed since the 1970's when his parents purchased the house; that the deck is the reason that they need a variance for total side yard; that the two items marked shed in the front yard are not sheds but covered containers that hold the trash cans; that there are two shed in the rear of the house; that there was a gazebo that

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has been removed and the steps to it are labeled on the survey; that he does not know exactly how his mother ended up in front of the Board but here they are; and that his mom wants to straighten this stuff out now because she does not want to leave him with problems; and that they are not constructing anything; that everything is existing and the back corner of the deck is causing the need for the variance.

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.

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested total side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. There is no proposed construction on the lot, the site plan is showing existing conditions, therefore the Board is not requiring a revised site plan or comments for the State Department of Transportation or a permit from the Rockland County Highway Department because there will be no construction activities on the site. The required total side is 50' and the applicant is requesting 48.4'; which is minimal variance.
2. The requested total side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There is no proposed construction on the lot, the site plan is showing existing conditions, therefore the Board is not requiring a revised site plan or comments for the State Department of Transportation or a permit from the Rockland County Highway Department because there will be no construction activities on the site. The required total side is 50' and the applicant is requesting 48.4'; which is minimal variance.

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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 a variance.

4. The requested total side yard variance is not substantial. There is no proposed construction on the lot, the site plan is showing existing conditions, therefore the Board is not requiring a revised site plan or comments for the State Department of Transportation or a permit from the Rockland County Highway Department because there will be no construction activities on the site. The required total side is 50' and the applicant is requesting 48.4'; which is minimal variance.

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

General Conditions:

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

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

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

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

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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 total side yard variance is APPROVED; was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: January 9, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

TOWN CLERK
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FILE,ZBA, PB
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